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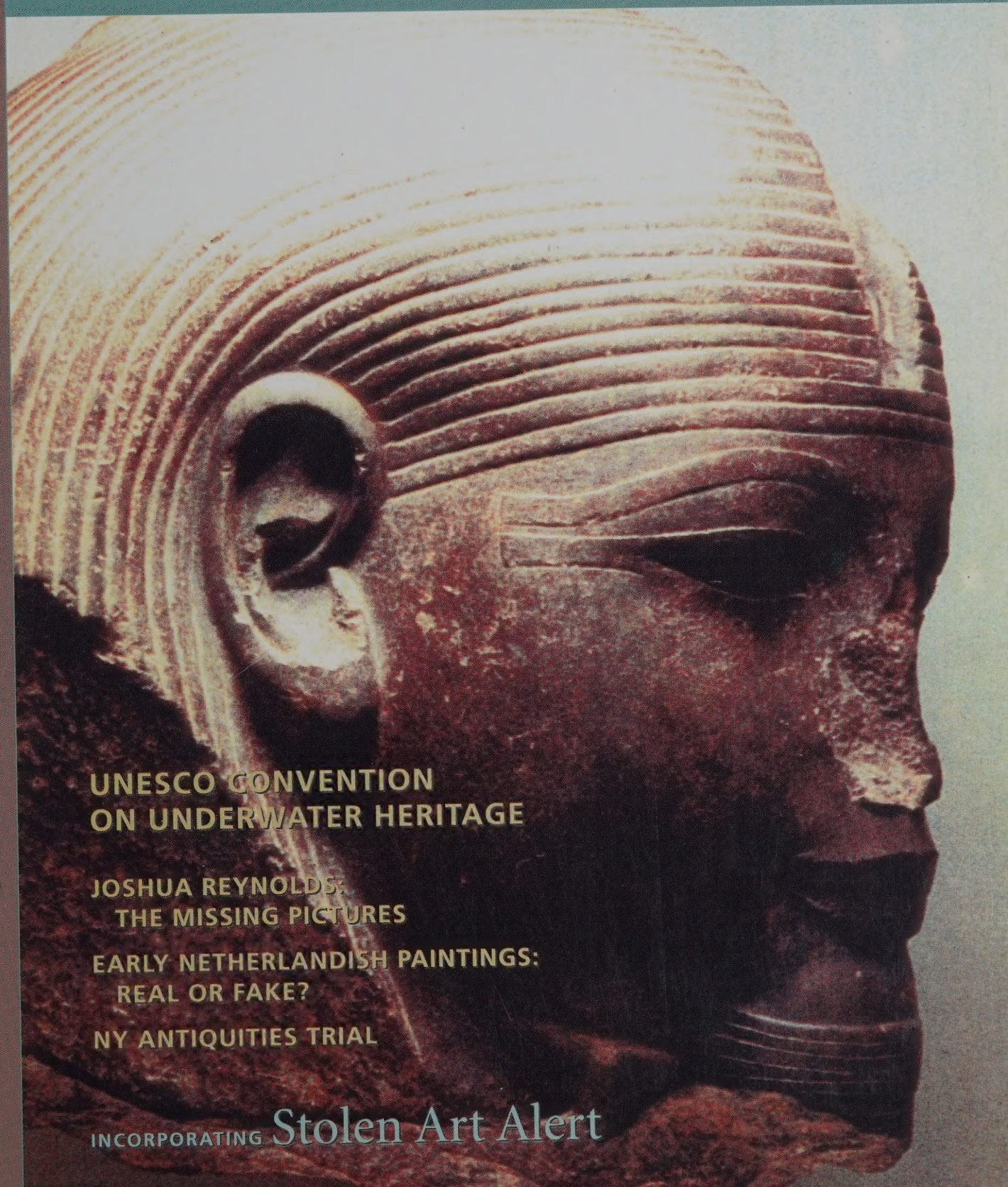
IFAR Journal

INTERNATIONAL FOUNDATION FOR ART RESEARCH



UNESCO CONVENTION ON UNDERWATER HERITAGE

JOSHUA REYNOLDS: THE MISSING PICTURES

EARLY NETHERLANDISH PAINTINGS: REAL OR FAKE?

NY ANTIQUITIES TRIAL

INCORPORATING Stolen Art Alert

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IFAR Journal

INTERNATIONAL FOUNDATION FOR ART RESEARCH

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SEPTEMBER 11TH AND THE ART WORLD

In the immediate aftermath of the World Trade Center attack, all that anyone could focus on was the devastating loss of life, the incredible destruction, and the shattering of our sense of security. Here at IFAR, less than three miles north of Ground Zero, the smoke from the collapse of the Twin Towers was visible for days, but there was no damage in midtown, and we were safe. We thank all our friends in the U.S. and overseas who called or e-mailed us with their concerns and good wishes.

Once past the immediate shock of events, however, the art community began to focus on the tragedy's specific impact on the art world: from the loss of and damage to works of

Figure 1. Auguste Rodin (French, 1840–1917). *The Three Shades*. Bronze. (Post-Sept. 11 condition). Cantor Fitzgerald Coll. Photo courtesy of The Port Authority of NY and NJ.

art—estimated at well over $100 million; to the fourteen artists' studios that were destroyed in the World Trade Center (WTC) alone; to the death of artist Michael Richards, who had spent the night of September 10 in his 92nd floor studio in the North Tower; to the temporary, but

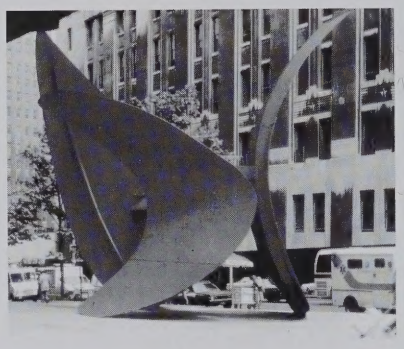

Figure 2. Alexander Calder (American, 1898–1976). *Red Stabile (Bent Propeller)*, c.1970-71. Steel painted red. Ht: 25'. (Pre-Sept. 11 condition). Photo courtesy of The Port Authority of NY and NJ.

sudden, closing of dozens of arts organizations in lower Manhattan; to the dramatic decline in museum visitors with the concomitant loss of revenue; to the postponement and even cancellation of several museum exhibitions; and to the anticipated loss of philanthropic funding for the arts as American generosity was directed in unprecedented amounts to help the families of the victims of the attack.

The art community, too, has responded with generosity, creativity, and speed to honor the dead, mourn the collective loss, and document the tragedy. Below, we've noted a few of the many responses, together with a list of just some of the art that was lost, although the full extent of the loss may never be known. Dozens of corporations with art collections were located in the Twin Towers, but not all their collections were well documented. Moreover, those companies that suffered enormous loss of life could not determine, or, in the immediate aftermath of the tragedy, were not able to focus on what art was lost. For example, the curator of the Cantor Fitzgerald collection, Joan Inciardi, told IFAR in October: "I have lost 600 of my colleagues; I can't think about art right now." One work from that collection, however, a life-size Rodin bronze of *The Three Graces*, has amazingly and hauntingly turned up, in pieces, among the ashes and ruins at Ground Zero (Fig. 1).

In light of all this, IFAR has organized a symposium for February 28 entitled "September 11th: Art Loss, Damage, and Repercussions." We've

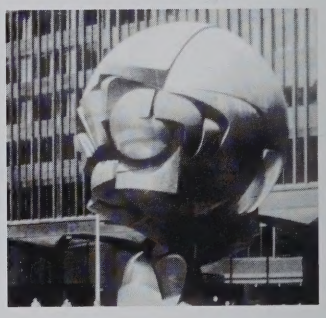

Figure 3. Fritz Koenig (German, 1924–). *Sphere for Plaza Fountain*, c.1968–71. Bronze. (Pre-Sept. 11 condition).Ht: 25'. Photo courtesy of The Port Authority of NY and NJ.

invited leaders from the world of art and insurance to discuss the specific works lost and damaged; the efforts to salvage the damaged works; and the impact the tragedy will have on art insurance and exhibitions. The program will be recorded, edited, and illustrated for publication in the next issue of *IFAR Journal*.

—S.F.

ABBREVIATED LIST OF ART LOST AND DAMAGED ON SEPTEMBER 11TH:

Public Art Commissioned by The Port Authority of New York and New Jersey

Louise Nevelson, *Sky-Gate, New York*, 1977-78—painted wood relief; located lobby, 1 WTC

Alexander Calder, *Red Stabile* (also known as *Bent Propeller*), 1971—located on the plaza in front of 7 WTC. (Fig. 2) Parts of the stabile have been found.

Joan Miró, *Tapestry*, 1974; located mezzanine lobby, 2 WTC

Matsayuki Nagare, 1967-72, granite and steel sculpture, located on the plaza, Church Street entrance (said to be the largest public work in stone outside of Mount Rushmore)

Elyn Zimmerman, 1993, *Memorial Fountain*, located plaza WTC (a memorial, ironically, to the victims of the 1993 bombing of the World Trade Center)

James Rosati, 1967-73, *Ideogram*, stainless steel sculpture; located plaza WTC

Fritz Koenig, 1968-71, *Sphere for Plaza Fountain*, bronze; located plaza WTC (Fig. 3)

Lost art in other public spaces:

Roy Lichtenstein, c.1970s, *Entablature*. One of the artist's Entablature series; located second floor lobby, 7 WTC

Al Held, *Third Circle*; located second floor lobby, 7 WTC

Louise Nevelson, 1986, *Cloud*, white painted wood; located lobby 7 WTC

Romare Bearden, *The Collection Pond*, large tapestry, located Marriott Hotel

Le Corbusier, *Le Canape*; Aubusson Tapestry, located Marriott Hotel

Corporations in the Twin Towers known to have art collections, include:

Fred Alger Management, 93rd floor, North Tower, large photography-based collection. The company lost all 35 employees who worked in the building.

Cantor Fitzgerald, 101-105th floors, North Tower. The company lost more than 600 employees. It is not known publicly what art was lost with them, but news reports estimating that more than 300 Rodin sculptures were destroyed are exaggerated. The collection's renown started in the 1980s, when the company's founder, the late B. Gerald Cantor, amassed more than 700 Rodin sculptures (most cast posthumously). In 1981, he opened a public gallery on the 105th floor of the North Tower to display the collection, but it was later closed. Cantor donated more than 400 Rodin sculptures to the Brooklyn Museum, the Metropolitan Museum, and Stanford University, among other institutions. After his death in 1996, all the works belonging to his widow, Iris, and to the Iris and B. Gerald Cantor Foundation (as opposed to those owned by the company) were moved to California.

Salomon Smith Barney (part of Citigroup), 7 WTC—works by Jacob Lawrence, Jim Dine, Currier & Ives, John Heliker

Bank of America, North Tower—large collection of contemporary works on paper

Morgan Stanley, 20 floors in the South Tower; 3 floors #5 WTC

Artists' Studios:

The Lower Manhattan Cultural Council operated two studio programs in the North Tower of the WTC:

- *World Views*, an artists-in-residency program for international emerging artists, on the 92nd floor. Fifteen artists were in residency on September 11, including Michael Richards, who perished. All the art in the studios on September 11 was lost.
- *Studioscape*, which provided studios for artists on the 91st floor

Dozens of artists' lofts were located in the area near the Twin Towers. Many artists suffered damage to their art from soot, debris, and ash, and many were forced to evacuate their studios for days and weeks.

Artworks near Ground Zero that survived include:

Roy Lichtenstein, 1992, *Modern Head*, 30-foot stainless steel sculpture at 2 World Financial Center (a separate, but nearby building complex). Slightly damaged, covered with dust, but standing.

Seward Johnson, *Double Check*, 1982, bronze life-size sculpture; located Liberty Plaza, between Broadway and Church Street.

Daniel Chester French, *The Four Continents*, over-life-size marble statues at the U.S. Customs House, Bowling Green

Jean Dubuffet, *Group of Four Trees*, sculpture, Chase Manhattan Plaza

A FEW OF THE MANY ARTS-RELATED SEPTEMBER 11TH RESPONSES:

An archive of World Trade Center remains is being created for a future memorial. The City has appointed an architectural firm, Voorsanger & Associates, to oversee the project.

The *New York Arts Recovery Fund*, a project of the New York Foundation for the Arts and other arts-service organizations, is issuing emergency grants to artists affected by 9/11.

Arts for Hope, a year-long campaign by the Arts & Business Council, is promoting the arts in New York City and coordinating efforts by arts organizations to help families of 9/11 victims.

The Mellon Foundation set aside $50 million to help arts organizations affected by 9/11; the Andy Warhol Foundation has followed suit with a grant of $500,000.

The Museum of the City of New York has acquired the *Wall of Prayer*, the plywood fence at Bellevue Hospital that became a spontaneous bulletin board for victims' families after the 9/11 attack.

The Heart of Art, a joint effort on the part of 25 art galleries in the Fuller Building in Manhattan, raised funds for families of police and fireman killed on 9/11.

The *I ❤ New York—Art Benefit*, a week-long exhibition and sale of art organized by dozens of New York art galleries, raised money for the families of WTC victims.

The Heritage Emergency National Task Force, a coalition of federal agencies and nonprofit organizations headed by Heritage Preservation, Inc. and the Federal Emergency Mgt Agency (FEMA), is assessing the 9/11 damage and loss to cultural properties in New York and Washington.

World Trade Center Documentation Task Force, a coalition of museums, archives and libraries, is documenting the responses of public and private organizations to the events.

Dozens of works of art have been and will continue to be inspired by the tragedy.

EXHIBITIONS:

New York, September 11 by Magnum Photographers, at The New York Historical Society

Here is New York: Images from the Front Line of History, at 116-118 Prince Street and then The New York Public Library

World Views: Open Studio Exhibition, an exhibit at the New Museum of works by artists whose studios in the North Tower were destroyed on 9/11

WTC: Monument, organized by The Skyscraper Museum and The New York Historical Society, the story of the building of the Twin Towers

The Day Our World Changed, Museum of the City of New York (will open Sept. 11, 2002)

IFAR SYMPOSIUM

September 11th:
Art Loss, Damage, and Repercussions

February 28, 2002 6:00–8:30 p.m.

VERDICT IN NY ANTIQUITIES TRIAL:

Guilty—
Sentencing Scheduled for May
Appeal Expected

As IFAR went to press, the jury in the trial of Frederick Schultz, a prominent New York antiquities dealer, came down with a verdict — guilty. Rendered in only a few hours, after more than two weeks of testimony, it was a rapid conclusion to a trial that has captured the attention of the art world. Schultz faces up to five years in prison and a $250,000 fine. Sentencing is scheduled for May 30th. Schultz's attorneys told IFAR he will appeal.

The case was brought in Federal District Court in Manhattan. The issues went to the heart of antiquities collecting, and the criminal charges represented a ratcheting up of the stakes in the increasingly contentious debate surrounding the ethics of collecting and dealing in antiquities.

Mr. Schultz was accused under the National Stolen Properties Act [NSPA] (Title 18, US Code, Section 2315) of conspiring to receive and possess stolen property, namely Egyptian antiquities, each with a value of $5,000, that had been unlawfully removed from Egypt after 1983. That was the year that an Egyptian patrimony law—Law 117 (which strengthens a 1951 Egyptian law) — broadly defined antiquities and gave the government ownership of all antiquities found after that date. Thus, the antiquities in the case against Mr. Schultz were "stolen" by virtue of their being "owned" by the Egyptian government under the patrimony law.

Schultz's co-conspirator in the case, unnamed in the original indictment, was an Englishman, Jonathan Tokeley-Parry. During the course of the conspiracy, from 1991-96, Tokeley-Parry was said to have supplied Schultz with 16 objects, only two of which he sold: a black vase and a stone head said to be that of Pharaoh Amenhotep III (Figs. 1 & 2), which Schultz sold to an English collector for $1.2 million. Schultz tried unsuccessfully to sell a striding limestone figure nicknamed "George" for $600,000 (Figure 3). Many of the other objects were returned by Schultz (such as a head he determined to be fake, and wall reliefs he didn't want because "paintings are not something I am permitted to deal in").

A Cambridge-educated art restorer, Tokeley-Parry was convicted in 1997 of smuggling antiquities into Britain and was sentenced to six years in prison. He was released after serving only three. He was the government's star witness against Schultz and was on the stand for more than four days. Although the defense called him a "pathological liar," the government produced letters, faxes, photographs and bank records to corroborate Tokeley-Parry's version of events. They also introduced excerpts from Tokeley-Parry's "journal," a detailed diary that he kept for years, which described his relationship with Schultz and others, as well as his efforts to smuggle antiquities out of Egypt.

Tokeley-Parry told the jury how, through powerful contacts in Cairo, he acquired objects found by farmers and builders or supplied by corrupt Egyptian antiquities police. Tokeley-Parry then covered the objects in liquid plastic, disguised them, and smuggled them out of the country. In England, he removed the plastic with acetone, and spent months restoring the objects, in some cases going so far as to create a version of the object as it might have looked had it been "restored" in the1920's for a British collection of the time. He later removed that restoration and created a new one to conform to contemporary taste.

Figure 1. Stone head, said to represent Amenhotep III, Eighteenth Dynasty, New Kingdom, c.1400 B.C. Shown in restored state, with beard and uraeus added, as sold by Frederick Schultz. Photo: U.S. Attorney's Office, Southern District of NY.

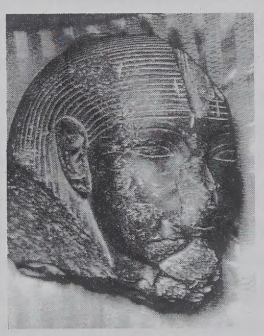

Figure 2. Stone head, said to represent Amenhotep III, before restoration by Tokeley-Parry. Photo: Richards Spears Kibbe & Orbe.

Tokeley-Parry admitted lying to Schultz about the extent of his restorations and also deceiving Schultz, in some cases, as to an object's authenticity. The defense

accused him of also deceiving Schultz about provenance.

That provenance involved the fabricated story of an old English collection—the Thomas Alcock collection — which was said to have acquired the antiquities in the1920s, when it was legal. (Alcock was the name of Tokeley-Parry's great uncle.) In order to create labels for the Alcock collection, Tokeley-Parry doctored and, literally, "baked" old pharmaceutical labels. He claimed that the idea for the labels was Schultz's; that he merely found a way to carry it out. Schultz said otherwise.

"The defense called him a 'pathological liar'. . . The government produced letters, photographs, faxes, and bank records to corroborate Tokeley-Parry's version. . . ."

To convict Schultz, the government had to convince the jury that Schultz knew the antiquities were taken out of Egypt in violation of that country's patrimony law and that he conspired with Tokeley-Parry in at least one overt act between September 15, 1995 and May 1996 (dates determined by the statute of limitations). Judge Jed S. Rakoff ruled that Schultz could not argue in his defense that his understanding of the term "stolen" did not encompass ownership as defined by the Egyptian law, but only the narrower sense in which it is generally understood in the U. S.

LEGAL ISSUES

Many of the legal issues that might have formed the basis for Schultz's defense were dealt with in a pre-trial motion to dismiss, which the Judge unequivocally rejected. In that motion, Schultz argued that the United States should not recognize the 1983 Egyptian law and that the law itself is vague. Schultz's dismissal argument rested on the following points:

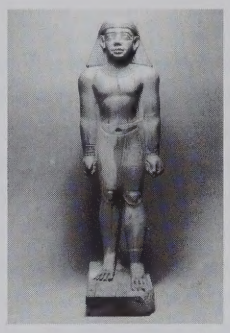

Figure 3. Limestone statuette, nicknamed "George," Sixth Dynasty, Old Kingdom, c.2100 B.C. Photo: U.S. Attorney's Office, Southern District of NY.

1) That the 1983 Egyptian law, despite its assertion of state ownership, is "really more in the nature of a licensing and export regulation," whose violation doesn't constitute theft as understood by the NSPA, under which he was indicted;

2) That even if the Egyptian law does apply to expropriation of property by Egypt, the kind of property thereby vested in that foreign state does not give rise to interests entitled to protection under U.S. law;

3) That even if such foreign interests might sometimes be entitled to such protection, "Congress, in enacting the Cultural Property Implementation Act of 1983 (CPIA), chose to substitute a civil enforcement regime for criminal prosecution."

As to Schultz's argument that the Egyptian law is only regulatory in nature, the court countered that the "language of the law itself . . . unequivocally asserts state ownership of all antiquities."

Regarding Schultz's point that American law does not or should not recognize the property interests represented by patrimony laws, the judge cited the still controversial McClain decision of 1977 (United States v. McClain). This, he said, was an "implicit recognition of the interest of the United States in deterring its residents from dealing in the spoils of foreign thefts." To underscore his point, the judge said: "If an American conspired to steal the Liberty Bell and sell it to a foreign collector of artifacts, there is no question he could be prosecuted under [the NSPA]."

As to Schultz's assertion that the CPIA supersedes the NSPA, "suffice to say, Judge Rakoff wrote, there is nothing in the language or history of the . . . Act to support this unlikely result."

The court took notice of another Schultz argument that the Egyptian law is "vague," but said that the fact that "a definition may be fuzzy around the edges does not render it meaningless, or inapplicable."

The Schultz trial has sparked great interest in the antiquities dealing community. Schultz himself is the former president of the National Association of Dealers in Ancient, Oriental and Primitive Art (NADAOPA). That organization, Christie's, and others filed "friends of the court" briefs on his behalf, while the Archaeological Institute of America and others filed briefs supporting the government. The case, and the legal issues raised in the motion to dismiss, will now come before the U.S. Court of Appeals, Second Circuit.

—S.F.

SWISS CONSIDERING NEW CULTURAL PROPERTY LAW

The 1970 UNESCO Convention on Cultural Property, designed to regulate the international movement of cultural objects and to clamp down on illicit trading in such objects, has been in effect for more than three decades, but few of the 91 nations that are now party to it are art-importing countries. Switzerland has been one of the major hold-outs.

A bill recommending implementation of the [UNESCO] Convention was sent to Parliament.

That may soon change—as the Swiss parliament is considering a bill recommending implementation of the Convention. Given the importance of Switzerland as a center for the international art trade, particularly in antiquities, passage of implementing legislation would represent a significant milestone. Until recently, the United States was the only major art importing country to become a party to the Convention. But France recently came on board, and Great Britain, Japan, and Belgium have indicated their intention to become parties to it as well. [The U.S. passed its implementing legislation in 1983—the Cultural Property Implementation Act, CPIA].

The proposed Swiss legislation, the Federal Act on the International Transfer of Cultural Goods (Cultural Goods Transfer Act), uses the United States CPIA as its model. That is, the Transfer Act would not regulate the import of cultural goods per se. Rather international treaties would be the starting point for regulation, and Swiss import laws would come into effect only after the individual treaties have been concluded. These bilateral treaties would consider the interests of both parties.

The Swiss Federal Council unveiled its proposed legislation in November 2001. It recommended passage of The Act and sent its draft to parliament. The Swiss parliament will consider the draft sometime this year. The Act contains provisions governing the return of illicitly imported cultural goods to their country of origin, the import and export of cultural goods, and their commercial trade. Provisions also protect Switzerland's own cultural heritage.

One significant change under the new Act concerns the time limit in which the owner of a stolen object could make a claim. Under existing Swiss law, the time limit to file suit is five years if the object was obtained by a new owner in good faith in trade. The new recommendations would extend that time to 30 years

"One significant change under the new Act concerns the time limit in which the owner of a stolen object could make a claim. . . . The Act would also impose due diligence obligations on the art trade . . ."

and would amend the Swiss Civil Code accordingly.

The Federal Act would also impose due diligence obligations on the art trade, including the obligation to inform their clients of any existing foreign and domestic import or export regulations.

The draft is the result of more than five years of hearings and debate. For more information and the full text, see www.kultur-schweiz.admin.ch/arkgt/kgt.

—S.F.

■ ■ ■

STOLEN CHAGALL MAKES ODYSSEY

FROM NEW YORK TO MINNESOTA TO KANSAS–AND BACK

Postal employees come across many strange packages but, surely, few more surprising than the one opened in Topeka, Kansas in January that contained the Chagall painting stolen from the Jewish Museum in New York last June.

Kansas was only one stop in the painting's journey. The Topeka office—a Midwest center for unclaimed property—got it from a post office in St. Paul, Minnesota, where it had been sent, presumably from New York, to an undeliverable address. FBI authorities in charge of the case are not releasing details about the addressee or the sender.

The painting, a 1914 oil sketch, *Study for 'Over Vitebsk,'* (Fig.1) disappeared from the Jewish Museum on June 7, 2001 after an evening reception in honor of a temporary exhibition, "Marc Chagall: Early Works from

Russian Collections." The painting was on loan for the exhibition from a Russian private collection. It was discovered missing the next day, and screws on the floor indicated that it had been pulled right off the wall. A few days later, the museum received a note postmarked The Bronx, New York, and dated June 12. It was signed by the International Committee for Art and Peace, an organization the authorities said was unknown to them. As a condition for return of the painting, the "ransom letter" demanded peace between Israel and the Palestinians.

"The painting was in an ordinary box wrapped in plain paper."

FBI agents who traced the route of the painting gave credit in particular to one alert Topeka postal employee. According to an FBI spokesman, the painting was in an ordinary box wrapped in plain paper. The postal worker opened it, found the painting, and started to remove the frame in an effort to determine the owner or destination. The employee, whose name has not been released, noticed that there were what appeared to be museum labels on the back and then went to the FBI Web site, saw information about the stolen Chagall, and called the local FBI bureau. The painting was then taken to the Nelson-Atkins Museum in Kansas City for inspection. The museum's Director of Conservation thought it was the real thing, and the FBI organized a press conference to announce the recovery.

The painting's authenticity was not confirmed, however, until it was returned to the Jewish Museum in February (2002). Chagall's granddaughter, Belle Meyer, a specialist in the artist's work, examined the painting out of the frame, recognized her grandfather's handwriting, and pronounced the work authentic. For now it remains in FBI hands pending an ongoing investigation.

Figure 1. Marc Chagall. *Study for 'Over Vitebsk,'* 1914. Oil on canvas.

Stealing art and using it as political ransom, as seems to have been the case with the Chagall, is rare, but it does happen. One notable example is the 1974 theft by the IRA of 19 works from the Beit Collection in Ireland. Those paintings were recovered by the police just 8 days later.

The 1994 theft of Edvard Munch's masterpiece, *The Scream*, from the National Gallery in Oslo, Norway, seemed, at first, to be politically motivated, but turned out otherwise.

"Stealing art and using it as political ransom . . . is rare, but it does happen."

An anti-abortion activist merely exploited the theft to demand that, to get the painting back, the state-owned television station air the anti-abortion film, "The Silent Scream." The station refused, and the painting was recovered in a "sting operation" 3 months later.

It is also often said, incorrectly, that the 1911 theft of the *Mona Lisa*, perhaps the most famous painting in the world, was some kind of political statement. In fact, it was taken as part of an elaborate forgery scheme, although the Italian carpenter who was recruited to steal the work from the Louvre later claimed that he did it in order to bring it back to Italy, where, he said, it belonged.

—S.F.

■ ■ ■

TWO MUSEUM INSIDERS GIVE IN TO TEMPTATION

Although museum insider theft is rare, two recent trials focused attention on people in important museum positions who, in very different ways, couldn't resist temptation and will be paying the price.

Russell Pritchard Jr. was Director of Philadelphia's Civil War Library and Museum for 19 years. In 1992 a distant cousin of his inherited the Hunt-Phelan Home, a historic site in Memphis, Tennessee. The cousin asked Pritchard to assess the contents. There were a number of antiques, but two Civil War uniforms in particular caught Pritchard's eye. He sent them to his son—an appraiser—for valuation, and later told his cousin that the uniforms weren't worth anything and had been donated to charity. That was a lie. The uniforms had actually been sold to a collector and were later bought by a Nashville museum for $70,000.

Inevitably, the scam was exposed, and Pritchard recently came to trial. His

first defense was to blame his son, who he described as a thief and a swindler. Eventually Pritchard accepted blame, saying he should have paid more attention. He certainly had clues.

His son, Russell Pritchard III, has had charges brought against him for numerous incidents, and, in fact, has recently pleaded guilty to 21 federal counts of fraud—unrelated to the Hunt-Phelan scam. Among the more egregious was the staging of a phony appraisal on the popular PBS television program, "The Antiques Road Show." Pritchard himself (the father) was convicted in January (2002) of stealing from a museum. He'll be sentenced in the spring.

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David Wooley, a curator in Wisconsin, was found guilty recently of another, more serious, form of museum temptation: insider theft. The museum in question is the Wisconsin Historical Society in Madison, where Wooley was Curator of Anthropology. He was convicted of stealing 35 Native American ethnographic materials from the Society's collection. All 35 objects have been recovered, but 175 others are still missing. Although Wooley got a jail term of 15 years (and 30 years of probation), he will be eligible for parole after serving 3 years and 9 months. While on parole, the ex-curator will, ironically, be barred from entering any historical society or from trading Native American artifacts.

Wooley seems to have an addiction for Native American objects. He's also been charged with taking some from another Wisconsin museum—the George W. Brown Museum and Cultural Center in Lac du Flambeau.

—S.F.

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MOBSTER PLEADS GUILTY IN FAKE ART SCAM

A scheme by three mobsters to sell five paintings—four fake, one stolen—went awry when the intended buyer turned out to be a government informant. It didn't help that the fakes were so bad they failed to impress anyone. The three perpetrators are all associates of a Gambino crime family figure. Two pleaded guilty before the trial in federal district court in Brooklyn in December (2001). The third, Dominick "Little Dom" Curra, said to be Mafia kingpin John Gotti's personal bookie, pleaded guilty in mid-trial. He was allowed out on bail while awaiting sentencing (he faced up to 3 years). But he failed to appear for his January 3rd (2002) court appointment, having flown to Costa Rica on Christmas Eve. U.S. authorities are looking into extradition and possible deportation to Italy, where he was born.

The scam involved two Picassos (fake), a Chagall (fake), and a Botero (fake). A fifth work was genuine, but stolen and misattributed. An oil on panel showing *Susanna and the Elders*, it was said to be by Rubens but was actually by a "follower" and much later, and worth, according to the government, only $2,000 rather than the $30 million that the informant said the mobsters were asking for it. In all, they wanted $35 million for the five works.

[The *Susanna* had figured in a major 1970 Baltimore theft, in which 23 works were stolen. It was listed in IFAR's very first publication on stolen art: *The Index of Stolen Art, 1977*. Another painting from that theft, a Picasso *Faune Playing a Flute*, which was featured on the cover of that IFAR publication, was recovered in 1989.]

Curra's accomplices in the scheme were Robert Walsh and Kevin McMahon. According to court documents, the three men tried to streamline the offering with technology—transferring the images of the fake and stolen works onto a computer disk and then setting out to peddle the works. But their first buyer was the man who turned them in. Court documents also indicated that in an effort to increase the cachet of their forged and filched works, the mobsters planned to dress the paintings in expensive frames and exhibit them in an Upper East Side Manhattan gallery.

Alas, they were arrested before they could do it. In any case, the works themselves—including a "Picasso" *Portrait of a Bull* and a "Botero" *Portrait of a Woman and Child*—were unsophisticated. According to court documents, an expert enlisted by the FBI pronounced the Picasso, for one, "a blatant forgery."

—S.F.

■ ■ ■

ERRATUM

In the article entitled "A Puzzle Resolved: Duke's Portrait Identified," in Vol. 4, no. 1, 2001, the location of the painting under Fig. 5, p. 41, should have read: Neues Schloss, Bildzimmer, Bayreuth.

Early Netherlandish Paintings or 20th–Century Fakes?

IFAR Evening, June 27, 2001, A Summary

MARYAN W. AINSWORTH*

EDITOR'S NOTE: *The following article by Maryan Ainsworth is a summary of an* IFAR Evening *talk. It draws on Dr. Ainsworth's years of pioneering research as an art historian and, until recently, Senior Research Fellow within the Paintings Conservation Department of the Metropolitan Museum of Art.*

Rare are the occasions that we encounter what appear to be suspicious works of art, and seldom do we have the opportunity to scrutinize such works. However, recently an anomalous triptych was sent to The Metropolitan Museum of Art for study purposes and a consideration of its attribution and date. Investigating the unusual aspects of its form and manufacture is a worthwhile exercise in itself. But there is far deeper meaning and interest to be discovered in relating the work to its historical context and cultural milieu. In this case of deception–that likely took place in early 20th-century Berlin–there is an interesting connection to the cautionary articles written by Max J. Friedländer that first appeared in the periodical *Kunst und Künstler* and subsequently, in 1930, in a book entitled *Genuine and Counterfeit, Experiences of a Connoisseur.*

Figure 1. Unknown, after Hans Memling. *Virgin and Child with Two Donors*, early 20th century. Oil on panel, central panel: 52.1 x 37.5 cm, each wing 52.1 x 18.7 cm. Palmer Art Museum, The Pennsylvania State University, gift of Dr. Friedrich G. Helfferich.

Maryan Ainsworth, *IFAR Evening*, June 27, 2001.

THE PALMER TRIPTYCH

A triptych of *The Virgin and Child with Male and Female Donors* attributed to Hans Memling was donated to the Palmer Art Museum at Pennsylvania State University in 1999 (Fig. 1). The donor recalled that his mother had purchased the work at an auction in Berlin in the 1930s. Eventually it was passed on to the son, who immigrated to America. In recent times the triptych had been appraised by dealers, who supported the attribution to Memling or to his immediate circle. Indeed, the motif of the Virgin and Child comes from Memling's famous *Nieuwenhove Diptych* (Bruges, Memlingmuseum, Fig. 2); an even closer prototype may be found in a Metropolitan Museum panel attributed to a follower of Memling (Fig. 3). What immediately strikes a specialist in the field of Early Netherlandish painting, however, is that the Palmer Museum triptych combines the model of a 15th-century Virgin in the style of Memling with that of a Child from a 16th-century model closely associated with the works of Joos van Cleve (Fig. 4). This conflation arouses suspicion about the triptych's attribution, manufacture, and date.

Although certain features of the triptych appear to be typical of its purported period, in other respects the work is uncharacteristic:

- The three interior panels do not show a continuous landscape background or shared interior space that one would expect of a work by Memling or his direct followers. The details of the interior rooms of the left and right wings are taken from the *Nieuwenhove*

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Figure 2. Hans Memling (c.1430/40–94). *Nieuwenhove Diptych*, 1487. Oil on panel, panels each 44.7 x 33.5 cm. Sint-Janshospital, Memlingmuseum, Bruges. Photo: Memlingmuseum.

Diptych, but as these wings are separated by the central panel that shows a different background, there is no continuity of the setting.

- The donor figures are smaller than the Virgin and Child, which is unusual but not unique.
- The central panel, as mentioned, shows a mixture of motifs for the Virgin and Child from different periods. Furthermore, the Virgin offers the Child an apple that he does not appear to receive, given his awkward hand and arm positions. This shows a misunderstanding of the iconography or meaning of the motif.
- The donor figures do not wear 15th-century Netherlandish costume, but 16th-century German attire. The female donor holds a devotional book with a paper bookmark in it. This is certainly an anachronistic detail; bookmarks of the time were made of leather strips or ribbons.

Figure 3. Follower of Hans Memling (c.1430/40–94). *Virgin and Child*, c.1490. Oil on panel, 27.3 x 21 cm. The Metropolitan Museum of Art, New York. Gift of Jules Bache.

PHYSICAL AND TECHNICAL EVIDENCE

The above-mentioned aspects of the triptych already suggested a work that in its style and meaning could not be considered consistent with Early Netherlandish painting. However, such doubts and suspicions must be borne out through the technical investigation:

- The outside wings are not painted, as is the case with Early Netherlandish triptychs, and the bare wood appears to have been artificially damaged with deep gauge marks. The holes for a missing clasp are too close to the interior edges of the panels. The four hinges that connect the wings to the central panel are not original, nor are they of early manufacture. They are not recessed into the wood (as was the practice at the time) and some have been cut down to fit the width of the panel, rather than custom-made from the start.
- The frame profiles of the wings are too narrow in respect to those of the central panel. The descent from the upper edge of the frame to the picture is too abrupt and the rainsill is unusually steep.
- Through microscopic analysis it is clear that the crack pattern in the paint has been enhanced by applications of fine pen lines in areas that are in tact and not restored.

Figure 4. Circle of Joos van Cleve (c.1490-1540). *Virgin and Child*, c.1520. Oil on panel, 49.5 x 35 cm. Gemäldegalerie, SMPK, Berlin. Photo: Jörg P. Anders, Gemäldegalerie, SMPK, Berlin.

"This conflation arouses suspicion about the triptych's attribution, manufacture, and date."

Figure 5. X-radiograph of the triptych wings. *Virgin and Child with Two Donors* (Fig. 1).

- The paintings appear to have been painted within their frames, as would be the normal procedure. However, the x-radiographs show clean-cut edges and missing sections at the top of the images on the wings, indicating that the paintings were likely made on another support and transferred to the current panels (Fig. 5).
- Infrared reflectography shows a near absence of any underdrawing–only some faint contour lines for certain architectural features. But the absolutely flat appearance of the flesh areas of the figures is most peculiar, and there is no indication of the interior modeling of forms (Fig. 6). In authentic paintings by Memling and his workshop, the paint layer structure remains visible to some degree and there is at least a sense of the varied modeling of forms.
- Pigment analysis revealed that the paint used is typical of the late 19th or early 20th century. The lead white contains barium sulfate, a component that first appears in white pigments in the early part of the 20th century.
- The paint layer structure revealed a thin transparent application layer, looking like shellac, above the ground and below the upper layers. Such fast-drying applications cause convincing artificially produced craquelure.
- Dendrochronology revealed that the panels indeed came from the Baltic region as they should, but that the felling date of the tree from which these panels were cut is 1615. Allowing for seasoning and drying of the wood, it could not have been used for painting before around 1623. Therefore, the panels are from the 17th century. It is possible that there was originally another painting made on these panels that was scraped off to accommodate the present work.

Figure 6. Infrared reflectogram computer assemblies of *Virgin and Child with Two Donors* (Fig. 1). Assembly: Alison Gilchrest.

"Pigment analysis revealed that the paint used is typical of the late 19th or early 20th century."

OTHER ANOMALIES

Among the other anomalies concerning this triptych was the existence of two other identically composed triptychs with the self-same donor figures. These were sold at auction or were known in collections as early as the 1910s. Although popular motifs of the Virgin and Child were often copied and reused for different diptychs or triptychs, there are no known cases where the donor figures are also exactly reproduced. There would be no explanation for this in the context of northern Renaissance production.

Furthermore, the details of manufacture of the Palmer Museum Triptych called to mind two other panels attributed to Memling, depicting a male and female donor, that had been studied at the Metropolitan Museum of Art on a previous occasion (Fig. 7). In addition to a similarly odd conflation of characteristic 15th and 16th-century motifs, these panels also show a tapestry background that was derived from patterns designed by John Henry Dearle, an assistant of William Morris, prominent participant in the English Arts and Crafts Movement of the 19th century. Even more revealing were certain striking similarities between the donor figures of the Palmer Museum Triptych

Figure 7. After Hans Memling. *Virgin and Child with Two Donors*, early 20th century. Oil on panel, central panel, 81.3 x 54 cm., each wing (painted portion), 51.5 x 21.6 cm. Formerly private collection, New York; present whereabouts unknown.

and those of this other example: male donors of the same exact pose and 16th-century German costume, female donors of similar pose and exact hand positions and placement of rings, the same pasty opaque quality of paint and flatness of forms executed in like manner.

THE BERLIN CONNECTION AND MAX J. FRIEDLÄNDER

According to the donor of the Palmer Museum Triptych, the work was purchased in Berlin in the 1920s. Furthermore, the prototypes for the motifs of the Virgin and Child could be found in Berlin, either on the art market (the *Virgin and Child* now in the Metropolitan Museum of Art had come through the Kaufmann Collection there) or hanging on the walls of the then Kaiser Friedrich Museum during the first two decades of the 20th century.

But what might have inspired the production of these "Flemish Primitives" in early 20th-century Berlin? Perhaps the answer can be found in the original prototypes that inspired the fakes. All of the works discussed here are indebted to the oeuvre of Hans Memling, who was the featured artist of the famous exhibition *Les Primitifs Flamands et l'Art Ancien* that was held in Bruges in 1902. Certain features of the Palmer Museum Triptych are based on the *Nieuwenhove Diptych*, which was one of the most popular works of the exhibition. The importance of this show cannot be overestimated. Extremely popular, it boasted an attendance of 35,000 people and introduced Early Netherlandish paintings to the public for the first time. Memling was the star of the exhibition with 38 of his paintings on view. Critics considered him the greatest Flemish Primitive as he combined two qualities most admired by contemporaries: the devout innocence of Medieval art, and the harmonious balance of the Renaissance. It was a show that also created the careers of those newly expert in the field of Early Netherlandish painting, in particular Max J. Friedländer, the curator of paintings at the Kaiser Friedrich Museum.

"What might have inspired the production of these 'Flemish Primitives' in early 20th-century Berlin?"

Friedländer is most noted for his fourteen-volume opus *Early Netherlandish Painting* written between 1924 and 1937. In its revised edition of the 1970s, it is still a fundamental source for attribution questions in this field. Another book that he wrote around the same time is less well known. *Genuine and Counterfeit, Experiences of a Connoisseur* is a compilation of eight articles on various aspects of the topic. Two are especially notable for the context of the Palmer Museum Triptych: "Concerning the Opinion of Experts"

and "On the Restoring of Old Pictures." In the former, Friedländer openly decries the situation of the time wherein dealers could not keep pace with the developments in scholarship and failed to consult experts on a regular basis. Authentic works were becoming rare, prices had risen, and American collectors, with little or no knowledge about paintings, had come onto the scene eager to buy up the available works. These conditions, he implied soon led to the over-restoration of significantly damaged pictures and to the production of fakes.

In "On the Restoring of Old Pictures" and "On the Forgery of Old Pictures," Friedländer describes specific methods of the faker's art, and his hypothetical examples, interestingly enough, are all related to the art of Memling. He states that exact copies are easy to recognize and that, therefore, forgers take motifs from different prototypes and combine them in a single painting. It can only have been a significant production of Flemish primitives, especially "Memlings," that prompted Friedländer to issue this warning to buyers. One can imagine that if forgers had had ready access to his fourteen-volume opus, *Early Netherlandish Painting*, they might not have created the fatal errors of form and function that unmask these works as products of the 20th century. It is no wonder that these modern paintings were not identified as such at the time. The knowledge to do so was simply not yet in the public domain.

AFTERWORD

Since the discovery of this small group of works that appear to be part of the same early 20th-century production from a Berlin workshop, others have surfaced. Most can be identified from old photographs in archives such as the Witt Library in London and the RKD (Rijksbureau voor Kunsthistorische Documentatie) in The Hague, and their whereabouts are unknown. These have been assembled insofar as possible and are illustrated along with a fuller description of this study in the June 2001 issue of *Apollo Magazine*. I have already heard from a number of colleagues who have identified other examples that belong to the same group, and we can look forward to further articles and announcements on the "Berlin forgery factory."

"All of the works . . . are indebted to . . . Hans Memling, who was the featured artist of the famous exhibition *Les Primitifs Flamands et l'Art Ancien* that was held in Bruges in 1902. . . . The importance of this show cannot be overestimated."

(→ *continued next page*)

EARLY NETHERLANDISH PAINTINGS

AUDIENCE QUESTIONS

Q Why are so many of these fakes pastiches?

Ainsworth: Because they're harder to detect. They're familiar but different enough that you don't notice straight away that something's wrong. We try to explain away oddities, especially when a certain part is very beautiful and we're attracted to it.

Q What is the current location of the Madonna and Child panel that went with the two donor panels examined at the Met in 1996?

Ainsworth: It was formerly in a New York collection but was sold at auction; its current whereabouts are unknown. In fact, we don't know where any of the works of this talk are now. Most were sold at auction in recent years, or can be found in photographs at the Witt Library.

I might mention that while I was researching these works, colleagues of mine in Belgium were looking into the very interesting problem of restorations of works by the Belgian restorer Jos Vanderveken. He is the restorer who copied the portions of the Ghent Altarpiece by Jan Van Eyck that disappeared during World War II. They're still attached to the altarpiece today, and they're very well done.

Helene Verougstraete and Roger Van Schoute have been investigating the Rogier Van der Weyden *Tournai Madonna* or "*Renders Madonna*," which they initially thought was a fake but now have recognized is a very heavily restored wreck of a picture that was probably originally by Van der Weyden. But in the process of investigating this, they have rediscovered Vanderveken's masterful technique of producing crack patterns. I hope that they will write further on this and look into other examples, many of which I think exist in public and private collections. So there's a difference between newly made and heavily overworked restored works.

Q Did you recognize the hand of a single forger or, if a workshop, would it have been in one place or was it a cottage industry? It looks like one hand.

Ainsworth: I hesitate to say one hand because I haven't seen enough of them yet to be able to say. Certainly I think they're part of a workshop and, depending on how many eventually show up, we may be able to estimate how many people were working at the time. But probably only a small percentage of the original output still exists, so it may never be possible to determine the different hands involved.

Q Could the Palmer Triptych date to the c.1850's, because the Sully collection was well known by then, and the Triptych really has a rather Neo-Gothic look to it and quite a lot of Cranach in it as well.

Ainsworth: No, because the pigment analysis—the barium sulfate—dates it later.

Q The earliest possible date is what?

Ainsworth: About 1910 or 1920. . . . The Sully collection was best known after it was hung in 1904. My understanding, from what I've read about it, is that—because of the exorbitant amount of money paid for it—it was kept hush-hush for a while, until it was publicly displayed in the Königliche Galerie.

Q After Friedländer's book, was there anything written on this group of fakes, or the possibility of these triptychs being fake, before you started your investigation?

Ainsworth: Not as far as I know. It is interesting that in his multi-volume study of Netherlandish painting, Max Friedländer never calls anything a "fake." It is always a "replica" or a "copy." I don't think he ever even says "later version." It's interesting that he, by choice, didn't include fakes in his volumes. Even in his photo archive, there is only one photograph concerning the group I am discussing with "falsch" written on the back. So he wasn't talking either, for some reason. Probably for the same reason we don't.

■ ■ ■

AN IFAR EVENING: EARLY NETHERLANDISH PAINTINGS . . .

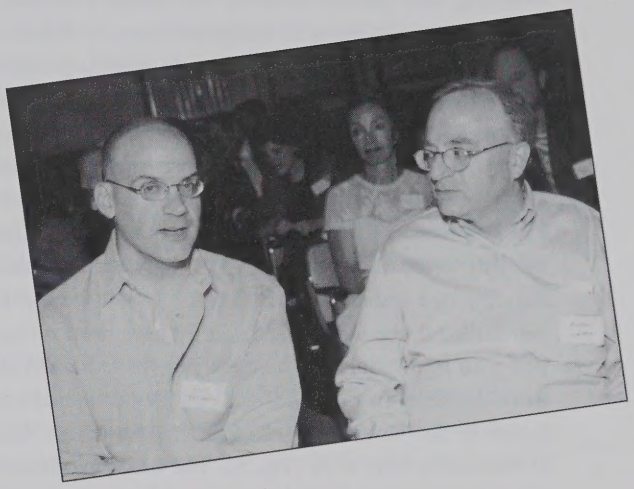
Mr. and Mrs. Eric Martin Wunsch flanked by Dr. and Mrs. Arthur Elkind.

Hester Diamond and Hector Feliciano.

Milton Esterow, publisher of *ARTnews*, and Sharon Flescher, Executive Director, IFAR.

Pamela and Harlan J. Berk.

Lawrence Steigrad and Dr. Maryan Ainsworth.



Paul Jeromack and Andrew Washton.

Milton Esterow and Michael M. Thomas.

Left to right: Malcolm MacCormack, Magda Saleh (Mrs. Jack Josephson), and Jack Josephson, Chairman, IFAR Board of Directors.

Professor Colin Eisler and Sue Sack.

Lost, Stolen and Destroyed Pictures by Sir Joshua Reynolds

DAVID MANNINGS

Lady Elizabeth Hamilton, only daughter of the sixth Duke of Hamilton and his duchess, the society beauty Elizabeth Gunning, was painted twice by Sir Joshua Reynolds, the leading portrait painter of eighteenth-century Britain. She sat first in 1758 when she was five years old; the picture was painted for her mother and hangs securely today in the National Gallery of Art in Washington DC [J. R. cat. no. 812].[1] The fate of the second portrait, completed in January 1777, two and a half years after her marriage, was very different. This was a life-size full-length portrait representing the lady dressed and coiffeured in the height of fashion, standing by a statue in a park landscape [J. R. cat. no. 813]. Her husband, the Earl of Derby, must have been very satisfied with it; not only did he allow it to be exhibited at the Royal Academy in the year it was completed, he had it published in the form of a splendid mezzotint by William Dickinson in May 1780 (Fig. 1). The following December the artist noted in his ledger that Lord Derby had paid 150 guineas for it. But when in 1863 Tom Taylor, working on a biography of Sir Joshua, contacted the Earl's descendants about this large and expensive picture, no one could find it. "It is curious," he wrote, "that this picture should not be in possession of the Derby family."[2] Was Taylor, a prolific journalist and editor of *Punch*, really unaware of what had happened, or had the family asked him not to be too specific? For Lady Elizabeth had, in fact, run off with the Duke of Dorset, a notorious rake by whom she had a son, whereupon her husband had destroyed her portrait. Dickinson's engraving is therefore our only visual record of it.

Figure 1. *Lady Elizabeth Hamilton*, engraving by William Dickinson after Sir Joshua Reynolds (British Museum).

Figure 2. *Mary, Lady Cadogan*, engraving by John Dean after Sir Joshua Reynolds (British Museum).

"Lady Elizabeth had, in fact, run off with the Duke of Dorset, a notorious rake by whom she had a son, whereupon her husband had destroyed her portrait."

The deliberate destruction of pictures is very rare. Lord Derby's wrath evidently overcame the prudence which usually results in unwanted images being quietly banished to the attic to await, after a discreet interval, a later sale. But perhaps the portrait of Mary, Lady Cadogan, another errant wife, suffered a similar fate [J. R. cat. no. 295]. The elder daughter of Charles and Lady Mary Churchill, she was the

* David Mannings is Professor of the History of Art at the University of Aberdeen, Scotland. He is the author of *Sir Joshua Reynolds: A Complete Catalogue of His Paintings* (the subject pictures catalogues by Martin Postle), 2 vols., New Haven and London: Yale University Press, 2000.

[1] For full details see David Mannings, *Sir Joshua Reynolds: A Complete Catalogue of His Paintings*, op. cit., no. 812. Bracketed numbers in the present article refer to this standard catalogue.

[2] C.R. Leslie & T. Taylor, *Life and Times of Sir Joshua Reynolds*, London 1865, ii, 182, note.

Figure 3. *Mary Goddard*, Mrs Edward Morant, engraving by Charles Townley after Sir Joshua Reynolds (British Museum).

second wife of Charles Sloane Cadogan. Horace Walpole wrote to Horace Mann on August 11, 1777 that the bride "is very pretty, amiable, and eight-and-twenty; he, rich and fifty."[3] In her forties she had an affair with the Reverend W. H. Cooper and was divorced in 1796. Did Cadogan destroy her picture? It cannot be traced today and we know what it looked like only from an engraving (Fig. 2). Like Lord Derby he did, at least, have an understandable motive. We don't know why Mary Goddard, Mrs. Edward Morant, destroyed her portrait, but that's what one of her descendants told Algernon Graves, compiler of the standard Victorian cata-

"In compiling our recent catalogue . . . [we] found ourselves with a long list of pictures . . . which could not now be traced."

logue of Reynolds's pictures, in March 1899.[4] Luckily, once again, the image is preserved in an engraving (Fig. 3).

MISSING PICTURES

In compiling our recent catalogue of Reynolds's paintings, Martin Postle and I found ourselves with a long list of pictures for the one-time existence of which there was good evidence but which could not now be traced. Some are known through written documents. For example, in Reynolds's Pocket Book for 1766 we find a memorandum: "General Sandford to be sent when finished to Mrs. Crawford in Merian [i.e. Merrion] Street, Dublin; to write to her to know if she would have it framed." And to clinch the fact that such a picture was indeed painted, a payment of £39.10s.6d is recorded in the artist's accounts on October 13, 1766 [J. R. cat. no. 1573]. No such picture can now be found. And what happened to the portrait of Lady Yarmouth, elderly ex-mistress of George II, who had six hours of sittings between December 17 and 31, 1762? Presumably her picture was never finished and the canvas scrapped or, more likely, stored along with many others similarly unfinished or unclaimed until being sold off after the artist's death for a few shillings.

DESTROYED BY FIRE

Most commonly pictures have been accidentally lost in fires, though surprisingly few such incidents are recorded in Reynolds's lifetime—the portrait of Edward, 9th Duke of Norfolk [J. R. cat. no. 943] may have been burnt in the fire at Worksop on October 22, 1761, and Bishop Percy's picture, completed in 1774, seems definitely to have burnt in the fire at Northumberland House in 1780 [J. R. cat. no. 1437].

In a period when houses were lit by candles and oil lamps, we might have expected even more such disasters. There have been many since. No fewer than nineteen pictures by Reynolds belonging to the Duke of Rutland were destroyed in the fire at Belvoir Castle on October 26, 1816, including some of his best-known and admired subject pictures: *The Nativity* [J. R. cat. no. 2106: the most expensive picture he ever painted], *The Infant Jupiter* [J. R. cat. no. 2098], *The Old Man Reading a Ballad* [J. R. cat. no. 2137], and *The Infant Samuel* [J. R. cat. no. 2149], plus a large number of other pictures including, of course, family portraits.

Other pictures by Reynolds are recorded as being destroyed in fires at (among other places) the Mansion House, Bristol, 1831; Flixton Hall, Suffolk, 1846; Inveraray Castle, Argyll, 1877; Tempsford Hall, Bedfordshire, 1898; Hagley Hall, Worcestershire, 1925; and Castle Hill, Devon, 1934. The full-length portrait of Henry Frederick, Duke of Cumberland, was so badly damaged in the fire at Carlton House on June 8, 1824 that it had to be cut down, as only the head was worth preserving [J. R. cat. no. 878].

MONEY LAUNDERING AND THEFT

A similar fate befell the half-length portrait of Lord Townshend, painted in 1767 in armor with a red sash across his shoulder [J. R. cat. no. 1762] (Fig. 4). Perhaps

[3] H. Walpole, *Correspondence*, ed. W. S. Lewis, W. H. Smith & G. L. Lam, London & New Haven, xxiv, 1967, 320.

[4] A. Graves & W. V. Cronin, *A History of the Works of Sir Joshua Reynolds*, London 1899-1901, ii, 664.

The portrait of Lord Townshend "was also cut down to only a head before being used, a few years ago, in a Cali drug cartel money-laundering operation that went wrong . . ."

this was also a victim of fire damage, we don't know; but for whatever reason it was also cut down to only a head before being used, a few years ago, in a Cali drug cartel money-laundering operation that went wrong, at which point it passed, with its hapless carrier, into the hands of the United States Marshal Service.[5]

Of course Sir Joshua's pictures, like all kinds of works of art, have long attracted the attention of criminals. Around 1900 the portrait of *Mrs. Yorke Paying a Guitar* (1958), belonging to Charles John Wertheimer, was stolen and subsequently burnt, though the circumstances are vague. When Lord Minto's house in Charles Street, Mayfair, London, was burgled on July 26, 1930, the thieves took, along with a quantity of jewelry, Reynolds's portrait of his great-great-grandmother, Anna Maria Amyand, Lady Elliot [J. R. cat. no. 579]. What happened subsequently is unclear, but Lady Minto told the leading Reynolds scholar, Ellis Waterhouse, that the thieves may have lost the picture at sea. Certainly it has never turned up.

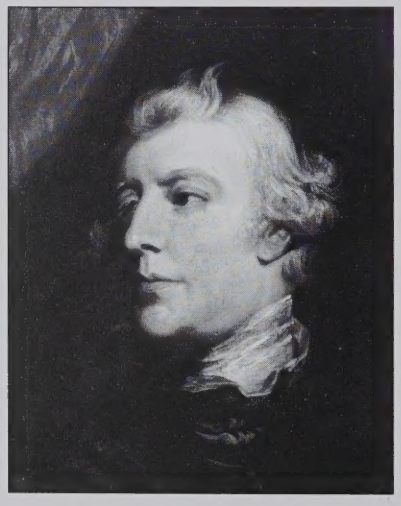


Figure 4. *Lord Townshend*, 1st Marquess, Sir Joshua Reynolds. Oil on canvas, 52.7 x 42.5 cm. Private collection.

Figure 5. *Mrs. Boone and her Child*, by Sir Joshua Reynolds. Oil on canvas, 127 x 101 cm. Location unknown, presumed destroyed in WWII. Formerly Kaiser-Friedrich Museum, Berlin.

WAR LOSSES

Not surprisingly, a number of Reynolds's pictures were destroyed in World War II, though photographic records exist of most of them. At least six family portraits by him were lost in the bombing of Mount Edgcumbe in Cornwall

"The fine portrait of *Mrs. Boone and her Child* . . . disappeared during the war and is presumed to have perished in the fire in the Friedrichshain bunker in 1945."

[see J. R. cat. nos. 553, 556, 557, 559, 561, and 564]. Other collections suffered similar losses. By a cruel irony, the portraits of Lord and Lady de Clifford [J. R. cat. nos.1652 and 1653] were lost in the Blitz while awaiting transport to a safe place, and four Reynoldses belonging to the Earl of Jersey, which survived the war in storage, were lost when a fire broke out in the store where they still remained four years after the end of hostilities [J. R. cat. nos. 357, 358, 595, and 1557]. The present Earl is remarkably philosophical about this astonishing piece of bad luck.

Nor were wartime losses restricted to England; the fine

[5] See "DEA Operation Nets 3 Pictures," *IFARreports*, December 1995.
[6] For the Friedrichshain fire see R. Klessmann, *The Berlin Gallery*, London 1971, 69-72. For the legal issues involved in returning works of art taken to Russia after World War II, see, among others, *The Art Newspaper* 95, September 1999, 10 and *IFAR Journal*, Vol. 2, no. 2, Spring 1999.

portrait of *Mrs. Boone and her Child* [J. R. cat. no. 202] (Fig. 5), presented by the financier and collector Alfred Beit to the Berlin Gallery in 1906, disappeared during the war and is presumed to have perished in the fire in the Friedrichshain bunker in 1945.[6] However, other items of value once thought lost in that conflict have recently turned up in the former Soviet Union, so there remains a faint chance the picture might reappear one day.

More recent losses include the full-length of Mrs Edwin Lascelles, later Lady Harewood [J. R. cat. no. 1091], burnt in a fire at the Huntington Art Gallery, California, in 1985, and the portrait of Sir Harry Fetherstone as a child [J. R. cat. no. 604], burnt in the catastrophic fire that destroyed Uppark, Sussex, in 1989.

To end on a more positive note, Alan Gardner, a captain in the Royal Navy, was so enamored of his wife's full-length portrait [J. R. cat. no. 694] that he took it with him on several voyages. It suffered immersion in the sea on at least one occasion, and afterwards "suffered a second injury" while in transit with the Midland Railway. Happily it survived and can be seen, somewhat trimmed and repaired, in the National Gallery of Victoria, in Melbourne, Australia.

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The UNESCO Convention on the Protection of the Underwater Cultural Heritage

JAMES A.R. NAFZIGER*

"God helps those who help themselves" is the English translation of a French inscription in the wreck of the notorious ship, the *C.S.S. Alabama.*[1] Until recently the law itself has provided similar counsel, offering little more than a game of "finders, keepers" to determine the fate of shipwrecks, cargo, related debris and other artifacts.[2]

Protecting and managing underwater cultural heritage requires international cooperation. Much of the heritage lies under international waters–as with the *R.M.S. Titanic*–or is at issue among countries because of the mobility of shipping activity. For example, the status of a sunken vessel may be disputed between a state of origin (the flag state) and a state within whose territorial jurisdiction the wreck may lie. Examples include imperial Spanish wrecks off the Florida coast and Dutch vessels sunk while plying the East Indies trade.

Diver holding Roman amphora from shipwreck, Ustica Island, Italy, Mediterranean. Photo: © Jeff Rotman.

Unfortunately, one of the biggest voids in both maritime law and international cultural property law involves underwater heritage. Until now, the law has been more "at sea" than "of the sea." At best, several countries have adopted rules and procedures to govern activity and resolve disputes related to wrecks within their jurisdiction. This practice and several bilateral and regional agreements disclose general principles of protection.[3] But there has been little acknowledgment by governments or their admiralty courts of the commonality of underwater heritage. The 1982 United Nations Convention on the Law of the Sea provides a limited framework for international cooperation and state responsibility to govern underwater heritage but offers little guidance. The 1970 UNESCO Convention on illegal trafficking in cultural property is generally limited to the territory of parties to the agreement. That situation, however, is about to change.

THE NEW CONVENTION

On November 2, 2001 a comprehensive instrument finally emerged when UNESCO adopted a Convention on the Protection of the Underwater Cultural Heritage.[4] The unofficial vote (there was no roll call) was 87 in favor and 4 opposed, with 15 abstentions. The product of more than a decade of work begun by the International Law Association,[5] it is the first new UNESCO convention since 1989 and the first on cultural property since adoption of

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[1] The French reads, "Aide toi et dieu t'aidera" and is carved on the brass ring of a steering wheel on the ship. See Max Guérout, "The Wreck of the C.S.S. Alabama," 186 *Nat'l Geog.*, Dec. 1994, at 67. The C.S.S. Alabama, built in England, was a vessel of the Confederate States of America that burned or captured 64 merchant vessels and a Union warship during the American Civil War, 1861-65. Finally sunk in 1864 by the U.S.S. Kearsage in a famous naval battle off the French coast, the C.S.S. Alabama and the role of Great Britain as the site of its construction were the subjects of arbitration after the Civil War. The arbitral tribunal required Great Britain to pay the United States $15.5 million damages for destruction of ships and cargoes by the Alabama and Confederate ships built in Britain. The proceedings are often cited as the beginning of modern arbitration and of United States commitment to third-party dispute settlement. See Manley O. Hudson, INTERNATIONAL TRIBUNALS: PAST AND FUTURE 5 (1944).

[2] See, e.g., Martha's Vineyard Scuba Headquarters v. The Unidentified, Wrecked and Abandoned Steam Vessel, 833 F.2d 1059, 1065 (1st Cir. 1987) (citing extensive precedent).

[3] See generally the definitive text, Anastasia Strati, *The Protection of the Underwater Cultural Heritage: An Emerging Objective of the Contemporary Law of the Sea (1995);* see also Anastasia Strati, "Deep Seabed Cultural Property and the Common Heritage of Mankind," 40 *Int'l & Comp. L.Q.* 859 (1991).

[4] UNESCO Doc. 31 C/24(2001).

the Convention for the Protection of the World Cultural and Natural Heritage in 1972.

In essence, the Convention:

- Establishes objectives and general principles, within the terms of the United Nations Convention on the Law of the Sea, to ensure and strengthen protection of underwater cultural heritage.
- Requires parties to comply with detailed scientific rules concerning activities directed at heritage and to ensure compliance with these rules by their nationals.
- Provides that parties must cooperate with each other in protecting and reporting on underwater heritage discoveries and activities involving their offshore jurisdictions.
- Prescribes that parties seize and dispose of heritage recovered in violation of the Convention and impose sanctions for violations of measures under the Convention. The sanctions must be "adequate in severity to be effective in securing compliance . . . and to discourage violations wherever they occur and . . . [also] deprive offenders of the benefit deriving from their illegal activities."
- Mandates scientific training, international cooperation, follow-up meetings, and peaceful settlement of disputes related to the Convention.

To launch its 35 articles and 36 annexed rules, the Convention defines "underwater cultural heritage" as "all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years." Parties to the Convention will assume a responsibility to protect this heritage offshore, in some cases, consistent with international law, out to 350 nautical miles.

"The Convention establishes objectives and general principles . . . to ensure and strengthen protection of underwater cultural heritage."

It prescribes that sanctions "be adequate in severity to . . . discourage violations . . . and deprive offenders of the benefit deriving from their illegal activities."

The required protection is defined in the annexed rules concerning activities directed at the heritage. For example, a qualified archaeologist must direct and control all such activities, which "must use non-destructive techniques and survey methods in preference to recovery of objects." Also, the protection of heritage by on-site preservation must be considered as the first option, and public access to on-site heritage "shall be promoted, except where such access is incompatible with protection and management." The rules also encompass standards for project design and scope of activity, preliminary work on a proposed activity, funding and duration of the activity, required safety and environmental measures, conservation and site management, curation, reporting and dissemination of information about discoveries.

Parties are obligated to ensure compliance with these requirements not only within their offshore jurisdiction but by their nationals and flag vessels on the seabed beyond their jurisdiction or wherever they may be engaged in activity directed at underwater heritage. Within their territory, parties must take measures to prevent illicit import, trading or possession of underwater cultural heritage. The Convention provides a detailed process of consultation and cooperation among coastal states and other parties that have declared an interest in particular heritage. Parties also agree to impose and enforce sanctions for violation of measures they have taken under the Convention, to seize and properly dispose of contraband property, and to cooperate in information-sharing, public education, technical training and follow-up meetings organized by UNESCO. Disputes that may arise between parties are to be settled by prescribed procedures and institutions.

The Convention takes no position on ownership of heritage or the precise manner in which parties administer the Convention so long as they act as required. If, then, the United States should become a party, it presumably would continue to rely on a combination of state authority under the Abandoned Shipwreck Act of 1987, some federal legislation applicable to marine sanctuaries and the like, and the decisions of federal admiralty courts.

[5] The Convention is substantially based on the Buenos Aires Draft Convention for the Protection of the Underwater Cultural Heritage, which the International Law Association adopted in 1994 and of which the author was Rapporteur. In preparing the draft agreement over a period of four years, the I.L.A.'s eighteen-member Committee on Cultural Heritage Law consulted with a broad range of salvage-law experts, law-of-the-sea specialists, institutions and government officials. See generally, Patrick J. O'Keefe & James A.R. Nafziger, "The Draft Convention on the Protection of the Underwater Cultural Heritage," 25 *Ocean Dev. & Int'l. L.* 391 (1995) and 26 *Ocean Dev. & Int'l. L.* 193 (1995) (update).

Since ancient times, general maritime law, including a regime of salvage and finds, has shaped decisions in admiralty courts. Until recently, it had been supposed that this common law of the seas, though not a "mystic over-law," as Justice Oliver Wendell Holmes once put it, was capable of governing underwater heritage. As rapid advances in science and technology began to overtake the capacity of general maritime law to protect the physical and cultural environment, however, confidence in its ability to resolve international issues related to the status and protection of underwater heritage began to ebb. In particular, as accessibility to historic wreck and other underwater cultural heritage has increased dramatically, it is apparent that the laws of salvage and finds cannot adequately resolve transnational disputes among salvors and other commercial interests, the public, and sovereign states. The maritime law of salvage and finds was simply not intended for application to historic wreck, cargo or related debris.

"The United States had no vote because it is not a member of UNESCO, but it had an observer delegation . . . "

REMAINING ISSUES AND NEXT STEPS

Given the inadequacy of general maritime law and other international authority to resolve questions of national jurisdiction and protection, it is not surprising that UNESCO negotiations were highly contentious. For seven years, a Committee of Experts comprising UNESCO members and observers grappled with several issues in particular. These included:

- A jurisdictional tug-of-war between flag states (especially Spain) and coastal states (especially in Latin America) in whose territorial waters flag-state vessels lie.
- The immunity of warships and other state vessels from activity unauthorized by the flag state.
- The balance of interests between scientists and private salvors.
- The extension of coastal state jurisdiction without explicit authorization by the 1982 Convention on the Law of the Sea.

Delegates worked particularly hard, and I believe successfully, to overcome any conflict between the new UNESCO Convention and the 1982 Law of the Sea Convention.

Requirements under the UNESCO Convention therefore fit within the general framework of coastal state jurisdiction, flag-state authority and state responsibility within the 1982 United Nations Convention. Unlike the International Law Association's Buenos Aires Draft Convention, however, the UNESCO Convention does not provide simply for exclusive flag-state authority over sunken warships and other vessels. Instead, it strikes a balance between coastal-state and flag-state authority but broadly requires flag-state consent to any activity directed at warships and other state vessels on the continental shelf and seabed.

For the most part, the negotiations succeeded in achieving consensus. In the end, however, the issues of coastal state jurisdiction and flag-state authority over state vessels remained contentious. Indeed, these issues best explain the opposition of two states to the Convention–Norway and Russia–and the abstention in voting on the Convention by a few of the European maritime states. The United States had no vote because it is not a member of UNESCO,[6] but its observer delegation, the largest of all the delegations, announced that the U.S. accepted the Convention's general principles and annexed rules but was not prepared to accept the Convention as a whole.

The Convention establishes a basic international framework for protecting and managing underwater heritage. It will come into force as soon as twenty states have ratified or acceded to it, with no deadline for doing so. Over time, the Convention's rules are likely to provide a framework of custom that will shape the general practice of both parties and non-parties in their maritime relationships with each other. It might be noted that the vote on adoption of the Convention was similar to that on the 1972 World Cultural and Natural Heritage Convention (75-1-17), which is now almost universally accepted. In any event, there is a growing awareness expressed in international agreements and national legislation, of the need for states to cooperate and agree on fundamental rules for protecting underwater cultural heritage. Only then may a true and responsible freedom of the seas be salvaged from the uncertainties of a derelict law. Only then will the law confer a lasting benefit to humanity derived from this heritage.

" . . . It is not surprising that UNESCO negotiations were highly contentious."

[6] The United States withdrew from UNESCO in 1984. Its non-member status does not preclude it, however, from remaining or becoming a party to UNESCO Conventions.

Authenticity and the Statute of Limitations in Art Sales: A Suggestion*

FRANKLIN FELDMAN**

Art and law have always been a strange mix. Whereas relationships in the law have been based largely on elaborate written agreements, dealings in art have been informal—involving handshakes, nods, and back slapping. This has not always left the parties with pleasant memories.

Consider the critical problem of authenticity—fakes and wrongly attributed works. It is not a rare occasion that a purchaser who has made a substantial purchase of a painting or a sculpture has been advised many years later that the work is not genuine. When he (or she) finally seeks legal recourse—in the courts, of course—the purchaser is devastated. The work *was* a fake, but the suit was commenced too late.

A little-known provision of the Uniform Commercial Code—which is the law in 49 states (Louisiana, the exception)—provides that a claim arising out of a sale of goods (which includes art) must be brought within 4 years from the sale—and the parties "may not extend it."[1] Little imagination is required to realize that in many cases, one learns about the non-genuineness of a work of art after the four-year period. And that statutory provision has been widely upheld.

Oddly, despite this express statutory provision, the agreements of Christie's and Sotheby's have stated that if a purchaser at auction can demonstrate within five years after the sale that a work is not genuine, the purchase price will be refunded. Although each auction house has stated that it will live up to the five-year period (rather than the statutory four years), there may be a serious question as to whether the management of the auction houses do not have an obligation to their respective shareholders to insist on the shorter period.

At any rate, can anything be done? Herewith is a modest proposal which, it is submitted, should benefit all parties—the dealers and the purchasers—and would improve an anomaly in the law, at least as far as the purchase of art is concerned.

Assume that a purchaser is interested in a painting, which the dealer has priced at $100,000. Although the potential purchaser is aware that by simply opening one's mouth, a 10% reduction would be available, the feeling is that $10,000 is not an adequate discount for such a facial movement. He (or she) may regret the purchase, and one's spouse, on seeing the acquisition, may spout the usual: "It's it or me!" A very limited option. Finally, it may occur to the purchaser that the work could have a defect, including authenticity. No one may yet be aware of the statute of limitations issue.

Borrowing from other markets—such as the organized put-and-call market and the auto leasing market—the dealer could suggest that the interested party lease (or rent) the painting. For argument's sake, assume the dealer suggests a two-year rental with a monthly payment of $1,000,[2] and with a right in the lessor to purchase the painting for $100,000 (or $90,000) at any time during the rental term. And, in contrast to the put/call or auto leasing markets, the purchaser would have the right to credit all of the rental payments against the purchase price.

There are a number of advantages to both parties. For the dealer, the rental payments provide a cash flow which he would not normally have, and he now has a putative purchaser with a cash investment in the painting which might

*EDITOR'S NOTE: **This article represents the personal opinion of Mr. Feldman and is not an editorial. It is intended to spur a dialogue on an important aspect of art sales.**

■ ■ ■

** Franklin Feldman is retired partner, Stroock Stroock and Lavan; Lecturer in Law, Columbia University School of Law; and Chair, IFAR Law Advisory Council.

[1] The Section of the UCC is §2-725 (1). Its exact term provides: "an action for breach of any contract for sale must be commenced within four years after the cause of action accrued."

[2] The rental figure has been arbitrarily selected at 1% of the purchase price. There are a number of considerations which must be factored into the calculation, such as: the value of the right to credit the rental payments against the purchase price; the rate of interest represented by that right; the person who has the obligation to insure the work against loss and damage. Further, in contrast to the option market, the art is not likely to fluctuate or have great volatility in value during the rental period; and, in contrast to the auto market, the work will not necessarily decline in value once it leaves the dealer's premises.

induce a purchase of the work. For the lessee, it permits one, for a reasonable time and reasonable compensation, to have possession of the work with an opportunity to measure one's enjoyment and time to pay the balance. In effect, the purchaser has an interest-free loan for the two-year period. Art has become a liquid holding.

And what does it do for the anomaly in the law with respect to the statute of limitations with respect to purchases by good faith buyers of works of art? Inasmuch as the Uniform Commercial Code states that the four-year period commences when "any contract for sale" is made, it would appear most reasonable, and consistent with the wording of the statute, to mean that the sale is not made until the lessee elects to complete the purchase—presumably at the end of the two-year period. Thus, the statute would likely be extended for an additional two-year period (or longer, if the lease term is longer). The two-year extension is more meaningful than simply adding a couple of years to the statutory period. The extra two years gives the purchaser increased opportunity to check the authenticity of the work while in his (or her) possession during the lease term, a situation not generally available to a potential purchaser who is considering an immediate acquisition of a substantial work of art.

There is, of course, one potential sensitive issue with this proposal. Inasmuch as many committees which review a work of art for its authenticity, routinely require that the person submitting a work of art for review be the "owner," can the renter or lessee (who is not then the "owner") obtain the opinion of the relevant organization? If the reviewing authorities insist on the dealer's consent—and if the dealer refuses—what then? Who is likely to yield in this three-way scenario?

More than a simple idea, of course, will be needed to implement this program. It will require creative dealers and buyers who have a financial incentive to pursue the concept and reviewing authorities to perhaps reconsider their criteria for reviewing a work.[3] In my judgment, the chances of this working are very high and the potential is substantial. Any downside risk does not seem significant. Only time will tell how ridiculous or positive this suggestion may be.

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[3] There are other ramifications too extensive to discuss in this article. For example, the technique opens up the idea of a business venture agreeing with the dealer, for a premium, to purchase the work at a price reduced by the rental payments made by the lessee, if the lessee did not ultimately purchase the work. In short, a system of guarantees or reinsurance, not uncommon in the auction market where prices guaranteed to a consignor by an auctioneer are assumed by a third party.

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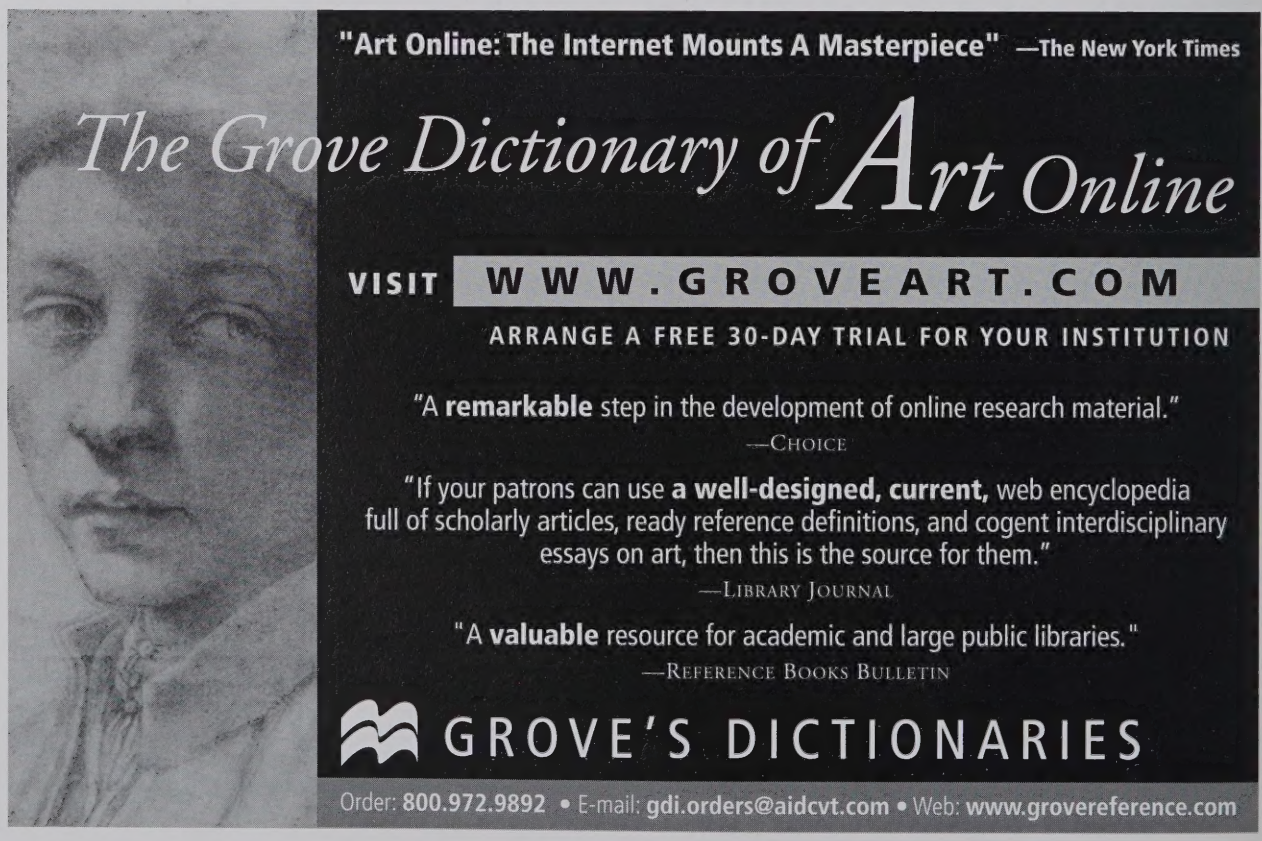
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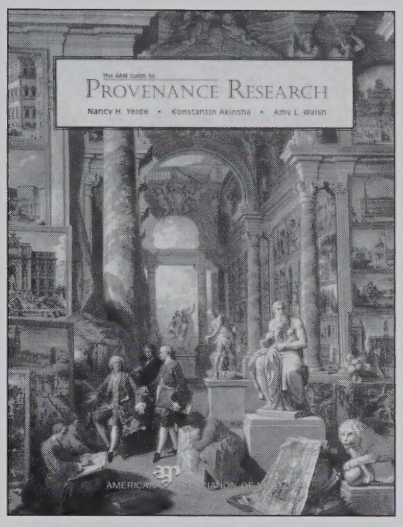
A New Tool for Provenance Research

EVIE T. JOSELOW *

Nancy H. Yeide, Konstantin Akinsha, and Amy L. Walsh. ***The AAM Guide to Provenance Research.*** American Association of Museums, Washington, DC, 2001. Paper. 304pp. Black-and-white and color illustrations, glossary, index, appendices A-K. ISBN 0-931201-73-X

Provenance research is a discipline that has been of interest to curators, art historians and other scholars for decades. Once an integral part of the education of art historians, and supplanted by the study of works of art in a social context, it has remained within the realm of dedicated scholars committed to the historical study of works of art. It is therefore important to note that the renewed interest in provenance research of the art looted by the Nazis combines social history with traditional art historical practice, making it be perceived as a new field of study.

The problematic issues surrounding the ownership of works of art, specifically during the Nazi era, has also expanded the realm of such studies to a larger professional sphere. In recent years a number of important conferences, beginning with the symposium "The Spoils of War" held at the Bard Graduate Center in 1995, and including the Workshop/Conference on "Provenance and Due Diligence" organized by IFAR last year in collaboration with New York University, have featured a roster of international speakers, trained as lawyers, archivists, historians, journalists, as well as art historians. The publication of some of these proceedings (*The Spoils of War*,[1] and the *IFAR Journal* special double issue[2]), the compilation of guidelines for research (recently revised and published by the Association of American Museum Directors), and the distribution of a variety of handouts outlining methodologies and resources for conducting provenance research, specifically for works of art whose provenances exhibit gaps between 1933 and 1945, the prime years of art looting by the Nazis, has resulted in a profusion of information and facts and piles of handouts. But even for those fortunate enough to obtain these materials, the pressing question still lingered as to how to put them to use.



The recent publication of *The AAM Guide to Provenance Research*, by Nancy H. Yeide, Konstantin Akinsha, and Amy L. Walsh, will put many of these questions to rest, as well as serve as an invaluable resource for identifying some of the significant documentary materials and resources that are presently available to assist with the research of provenance gaps during the World War II period.

PROVENANCE RESEARCH CHALLENGES

Although provenance research requires complete review and thorough investigation of all possible materials and ideas, it is by no means an exact science. It is a field of study filled with variables and discrepancies and demands careful analysis, time and dedication. It also is not for the amateur or uninitiated; it requires training, creativity, and a keen understanding of the innate problems encountered in art research. Specifically for World War II provenance gaps, it is essential that a researcher be able to reconstruct a complete, not a partial context, in order to properly place and determine the ownership of a work of art, and any possible transference or change of ownership during these critical years.

> "... provenance research of the art looted by the Nazis combines social history with traditional art historical practice ..."

The materials and histories presented in the *AAM Guide* focus on the years 1933-1945, in accordance with the guidelines formulated by the Assoc-

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[1] *The Spoils of War*, ed. Elizabeth Simpson, New York, 1997.

[2] *IFAR Journal*, Vol. 3, Nos. 3&4.

iation of American Museum Directors (see www.aam-us.org). However, an experienced and trained researcher would readily know and be able to recognize that, more often than not, it is necessary to expand research beyond these years. One must be able to identify earlier as well as later published materials and documents that help establish the context and offer pertinent information, such as exhibition and publication history, confirming the ownership history of a work of art. Those familiar with

"Unfortunately, there are no prescribed methodologies or resources for conducting such broader research . . . However, the AAM Guide can certainly be of invaluable assistance . . . ."

provenance research methods will also know that some gaps in provenances between 1933 and 1945, or even other years, may never be completely filled in despite every effort. However, a broader scope of research could produce a pattern that indicates the ownership of a work of art remained in the same country, and even possibly within the possession of the descendants of a family before, during, and after the war years. Such suggestive evidence diminishes concern about its provenance.

Unfortunately, there are no prescribed methodologies or resources for conducting such broader research, and this is where the creativity and resourcefulness of the experienced and informed researcher is required. However, the *AAM Guide to Provenance Research* can certainly be of invaluable assistance to those wanting to resolve the basic questions surrounding World War II provenance gaps; namely, was the work of art ever in the possession of the Nazis, by theft or forced sale, and was it properly restituted to the original owners? It is packed with useful information that provides facts and resources, as well as an historical perspective and background into art looting activities of the Nazis.

"RED-FLAG" NAMES

Specific case studies serve to enhance the contents of each chapter as well as to highlight some of the methodological approaches that have been utilized in conducting research. At the same time, the case studies also point out some of the commonly made mistakes in analyzing World War II-era provenances.

Most problematic is the presence in a provenance of so-called "red-flag" names of dealers, art historians, collectors, and others who were identified in post-War investigations as having suspect "affiliations" with Nazi art looting activities. Primarily garnered from investigative reports issued by the Art Looting Investigation Unit of the Office of Strategic Services (see ALIU listed in Appendix J in the *AAM Guide*), the purported activities of the "suspects" or specific illegal activities are often vague. Subsequent investigations later proved some charges unfounded. Moreover, the long careers and reputations of some of those named, as well as their legitimate dealings in the study and sale of specific types and periods of works of art, such as Old Master drawings or Impressionist paintings, must be carefully evaluated when reviewing the provenance of any "supposed" questionable work of art.

While Appendix I of the *AAM Guide*, "Selected Red-Flag Names from the ALIU List," certainly helps sort out the large cast of characters into a readable and comprehensive format, it remains integral for the researcher to make careful and studied assessments before reaching unwarranted conclusions. In the same manner that an individual is not guilty until so proven, so too is a work of art, and the Appendices of this book will certainly assist researchers in their efforts to reach sound conclusions.

The combined experiences and backgrounds of the authors of the *AAM Guide*, Nancy H. Yeide, Konstantin Akinsha, and Amy Walsh, as collection managers, researchers and curators respectively, provide the record-keeping, research skills and documentary knowledge that were so essential for compiling the information contained in this volume, and more importantly, for its clear and concise presentation.

FORMAT

The book is divided into two parts: Basic Provenance Research and Principles, and Holocaust-Era Provenance Research, both with related appendices. (The extensive Appendix section can be considered a third part of the book). Part One is a brief "how-to" section, presenting basic information and ideas that are extremely helpful for organizing and assembling provenance research projects. Part Two, a lengthier and more comprehensive section, focuses on the specific tools and resources for conducting Holocaust-era provenance research. The inclusion of an historic overview in the introductory pages of this latter section provides the context for understanding why such specialized research projects need to be undertaken in the first place.

The Guide's discussion of the Nazis' collecting habits, their artistic "policies" and preferences, and their systematically conceived looting methods presents comprehensible documentation that justifies the need for

closer examination of provenance gaps of works of art between 1933 to 1945, and even beyond. The brief overview of published materials, as well as the extensive bibliography (Appendix G) effectively supplies the key resources for gaining a greater understanding of what can certainly be considered to be the biggest art heist of the past century, if not ever.

The familiarity and thorough knowledge of both Konstantin Akinsha and Nancy Yeide with the primary source materials and resources available at the National Archives and Records Administration (NARA), College Park, Maryland, makes Chapter 8, "U.S. Resources," the strongest and most valuable part of the Guide. Although records from NARA are cited as essential documentation in some of the case studies presented in earlier chapters, the discussion of the different materials available there clarify why those working with museum collections must examine them in order to seek clarity in their provenances. Furthermore, the Guide's breakdown of the major record groups, and its examples of the key documentation, such as the ERR inventory cards and a reproduced page from the Linz List, provide concise explanations that allow researchers to effectively utilize these resources and abstract the correct information from them. The provision of actual reference and index numbers is also particularly useful for those who are unfamiliar with the record-keeping system of the National Archives at College Park, Maryland. Chapter 9, "European Resources," is also chock-full of information, and enumerates, to my knowledge for the first time ever, the names of restitution agencies, archival guides, titles of publications and the most pertinent documents that are available to researchers in individual countries abroad. While the opportunity to work abroad may not be feasible for many museums, particularly the constituents of the American Association of Museums, it cannot be anything but advantageous to know the resources available outside the immediate territorial boundaries of member institutions.

> "Chapter 8, 'U.S. Resources,' [is] the strongest and most valuable part . . ."

The AAM Guide to Provenance Research is a welcome addition to the bookshelves of museums, libraries, curators, art collectors, dealers, and even to those who are simply interested in the intriguing tales of art looted by the Nazis.

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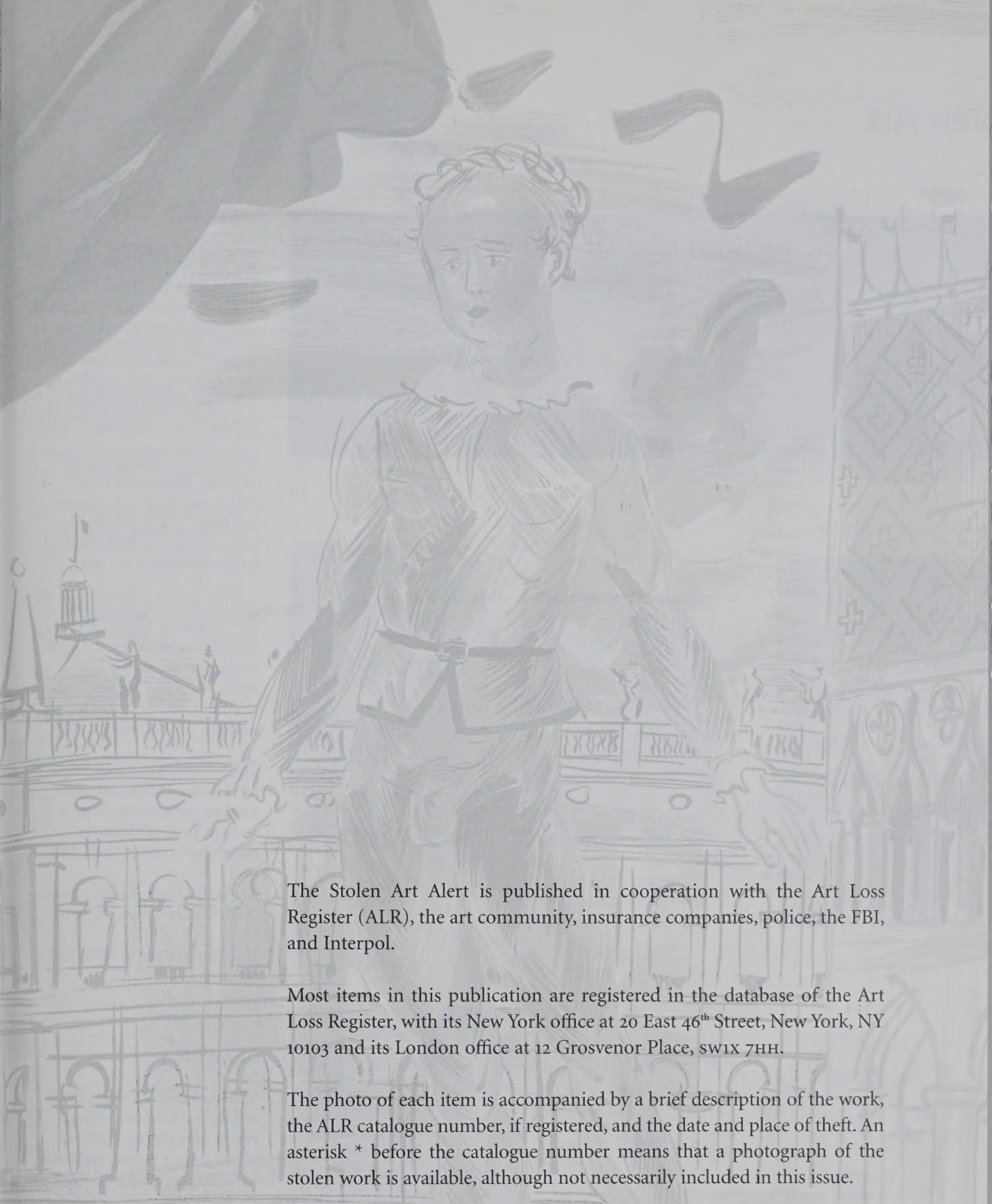

Stolen Art Alert

The Stolen Art Alert is published in cooperation with the Art Loss Register (ALR), the art community, insurance companies, police, the FBI, and Interpol.

Most items in this publication are registered in the database of the Art Loss Register, with its New York office at 20 East 46th Street, New York, NY 10103 and its London office at 12 Grosvenor Place, SW1X 7HH.

The photo of each item is accompanied by a brief description of the work, the ALR catalogue number, if registered, and the date and place of theft. An asterisk * before the catalogue number means that a photograph of the stolen work is available, although not necessarily included in this issue.

The information contained in each entry is supplied by the owner, and IFAR does not accept responsibility for its accuracy.

Anyone wishing additional information should contact the ALR at (212) 297-0941.

Stolen Art

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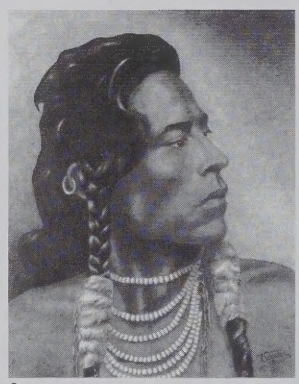

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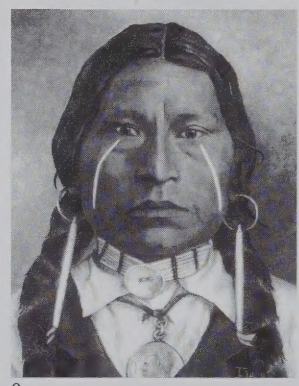


81.

82.

83.

PAINTINGS

76. Egon Schiele (Austrian, 1890-1918). See inside back cover.

77. Jan Olis (Dutch, c.1610-76). *Elegant Couple in an Interior.* Oil on canvas. 25.2 x 32.5 cm. *L01.393. Stolen in London between January and March 2001.

78. Jan Elmy (American, 20th century). *Harbenaro Peppers.* Oil on canvas. 4" x 6". Signed and dated. *N01.238. Stolen from a gallery in Philadelphia, PA on September 11, 2001.

79. Luis Magin (Colombian, 20th century). *Mujer Culebra Verde o Cucumax*, 1987. Oil on canvas, wood, copper leaf, metal. 24" x 24". Signed. *N01.211. Stolen in Los Angeles, CA on June 27, 1995.

The following two paintings by D. Jones (American, 20th century) were stolen from a store in South Dakota on November 2, 2001. *N01.240.

80. *Curly Crow—Custer's Scout*, 2000. Oil on canvas. 20" x 16".

81. *Western Apache*, 2000. Oil on canvas. 20" x 16".

DRAWINGS

82. Raoul Dufy (French, 1877-1953). *Two Children's Heads.* Pencil. 50 x 60 cm. *L01.345. Stolen from a private residence in Boulogne, France on April 19, 2001.

83. Pablo Picasso (Spanish, 1881-1973). *Spanish Woman.* Pencil. 20 cm x 15 cm. Signed and dated l/r: Picasso 1917. *N01.228. Stolen in transit between New York and Michigan on August 27, 2001.

PRINTS, LITHOGRAPHS

84. Leslie Matthew Ward (a.k.a. Spy) (English, 1851-1920). *The Favourite Jockey.* 29 x 20 cm. *L01.216. One of nine similar prints stolen in transit between London and Atlanta, GA.

The following prints, to which watercolor has been added, were stolen from a private residence in Boulogne, France on April 19, 2001. *L01.345.

85. Raoul Dufy (French, 1877-1953). *Paddock at Ascot.* 50 x 65 cm.

86. Raoul Dufy (French, 1877-1953). *Harlequin in the Venetian Manner.* 55 x 40 cm. *L01.345.

87. Kees van Dongen (Dutch, 1877-1968). *Sleigh and Church.* 12 x 17 cm.

88. Kees van Dongen (Dutch, 1877-1968). *Nude.* 23 x 17 cm.

84.

85.

86.

87.

88.

Stolen Art

89.

PHOTOGRAPHS

89. Jason Horowitz (American, 20th century). *Still Life*, c.1994. Image: 28" x 28". Paper: 40" x 40". *N01.192. One of two photographs stolen in transit between Atlanta, GA and Athens, GA in July 2001.

The following two items, a daguerreotype and an ambrotype, were stolen from the Missouri History Museum in July 2001. *N01.199.

90.

90. Thomas Martin Easterly (American, 1809-82). *Bob Wilkinson, Barber at the Southern Hotel*, c.1860. Daguerreotype, 3 1/4" x 2 3/4" x 1/2".

91.

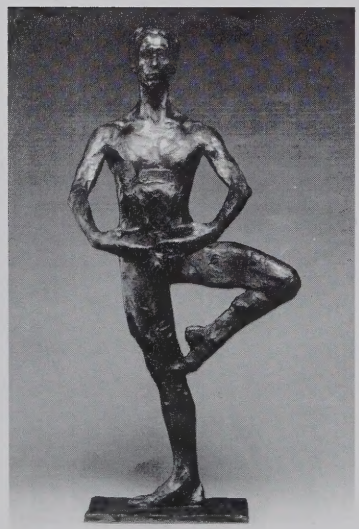
91. Photographer Unknown. *H.E. Hayward and His Slave Nurse Louisa*, c.1858. Ambrotype, 3" x 2 1/2" x 1/2".

SCULPTURE

92. Henry Moore (English, 1898-1986). See inside back cover.

93.

93. Peter Fagan (American, 20th century). *Equation*, c.2000. Bronze and stainless steel. Ht.: 6'. *N01.205. Stolen from a sculpture park in Skokie, IL on May 17, 2001.



94.

94. George Carlson (American, b.1940). *Mind, Body, Spirit*, c.1992. Bronze. Ht.: 24". Signed "Carlson" with edition no. 8/21. *N01.242. Stolen from a store in Los Angeles, CA on September 17, 2001.

95.

95. Ezio Martinelli (American, 1913-80). *Arco*. Bronze. 31" x 19" x 17". *N01.203. Stolen from the campus of Hofstra University on April 2, 2001.

AFRICAN ART

96. *Ekpu Oron Ancestral Figure* (African). Wood. *N01.233. One of five similar pieces stolen from a museum in Nigeria on October 22, 2000.

96.

ASIAN ART

97. *Snuff bottle* (Chinese, c.1780-1850). Jadeite. Ht. 5.5 cm. Stolen in transit between London and Cambridge, MA on November 26, 2001.

97.

98. Two *netsukes* (Japanese, 18th century) The taller piece, 3 3/4" and the shorter, just under 3". #N01.193. Stolen in transit between Washington, DC and Lynchburg, VA on July 30, 2001.

98.

The following two items were among 33 jade carvings stolen from a gallery in San Francisco, CA on June 14, 2001. *N01.200.

99. *Incensor* (18th century). 3 3/4" x 6 1/4".

99.

100. *Mother and Child Hunting for Shells* (Japanese, Meiji Period). Ht. 9".

100.

PRE-COLUMBIAN ART

101. *Pendant* (Panamanian/ Columbian, c.500-1,000 A.D.). See inside back cover

GLASS

102. Dale Chihuly (American, 20th century). See inside back cover.

Stolen Art

103.

104.

105.

CERAMICS, POTTERY, PORCELAIN

The following three items were stolen from a private residence in London on December 10, 2000. *L01.451.

103. *Vincennes Teapot.* Ht.: 10 cm.

104. *Sèvres Teapot,* c.1757. Ht.: 10 cm.

105. *Vincennes Sugar Bowl,* c.1758. Decorated by Veillard. Ht.: 10.5 cm.

106.

107.

108.

CLOCKS

The following three items were stolen from a private residence in Osterhout, The Netherlands, on April 7, 2001. *L01.457.

106. *Clock* (Gaudron à Paris, 17th Century). Ebony and tortoiseshell. Ht: 40 cm.

107. *French Empire Clock,* c.1815. Ormolu and bronze. Ht.: 45 cm.

108. *French Cartel Clock,* c.1760. Ormolu and bronze.

109.

110.

RUGS, TAPESTRIES

109. Andrea R. Anver (American, 20th century). *Saguaro Morado,* c.2000. 80" x 70". *N01.243. Stolen from a booth at an antiques mall in Kansas City, KS on November 15, 2000.

110. *Navajo Rug* (c.1880-90). German-town yarn. 78 1/2" x 57 1/2". Stolen on August 16, 2001 from the Millicent Rogers Museum, Taos, NM.

Recovered Art

PAINTINGS

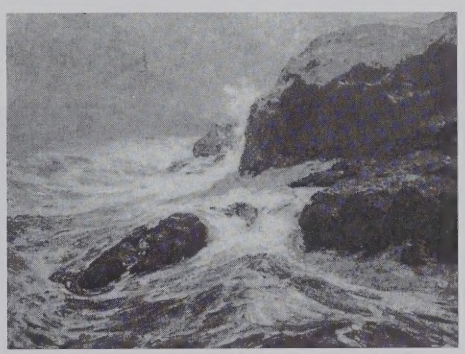
5.–7. Norman Rockwell (American, 1894-1978). *The Spirit of '76, So Much Concern, A Hasty Retreat.* These paintings, the last of seven stolen in 1978 from a gallery in St. Louis Park, MI, were recovered in December 2001 by U.S. and Brazilian authorities from a Rio de Janeiro art dealer.

5.

6.

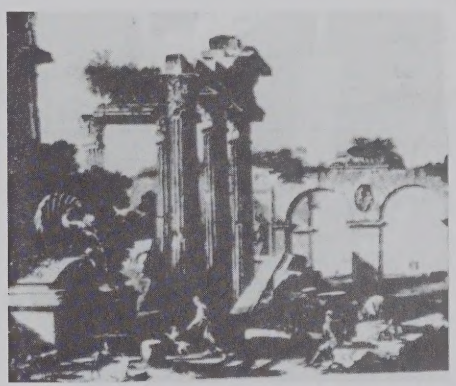
7.

8. (20th century). *Misty Morning*, c.1920-40. Oil on canvas. Approx. 121.9 x 152.4 cm with frame. *N91.163.1. Stolen from a private residence in Tannersville, NY on January 14, 1991. (See *IFARreports*, Vol. 12, no. 4, April 1991, no. 315.) Recovered in July 2000 after it surfaced at a West Coast auction house.



8.

9. Giovanni Ghisolfi (Italian, 1632-83). *Landscape with Roman Ruins and Figures.* Oil on canvas. 57.5 x 74.5 cm. *N91.342.5. Stolen from a private residence in Rome, Italy on June 21, 1991. (See *IFARreports*, Vol. 12, no. 11, November 1991, no. 959.) Recovered in December 2000 after a routine search of an Old Masters sale catalogue.



9.

10. Johan-Laurents Jensen (Danish, 1800-56). *Vase of Flowers*, 1839. Oil on canvas, 42.5 x 33 cm. Signed and dated l/l. *N80.14.1. Stolen in Watermill, NY on January 23, 1980. (See *Stolen Art Alert*, Vol. 1, no. 3, March 1980, no. 5.) Recovered in October 2000 after the ALR identified it in a European Paintings auction sale.

10.

Recovered Art

11.

11. Jan van Eyck, Follower of (Flemish, 16th century). *Head of Christ.* Oil and gold paint on panel. 33.0 x 25.4 cm. *N89.258.6. One of over 40 Old Masters paintings stolen from a private residence in Jackson Heights, NY on August 18, 1989.(See *IFARreports*, Vol. 10, no. 9, September 1989, no. 779.) Recovered in June 2001 after a New York dealer requested a search of the ALR database. The following paintings were also recovered:
12. Jan Wouwerman, (Dutch, 1629-66). *Landscape with Cattle and Travelers in Winter.*
13. Gerrit Dou, School of (Dutch, 1613-75). *Portrait of a Gentleman in a Portico.*
14. Isaac de Moucheron, (Dutch, 1667-1744). *Mountain Landscape.*

15.

16.

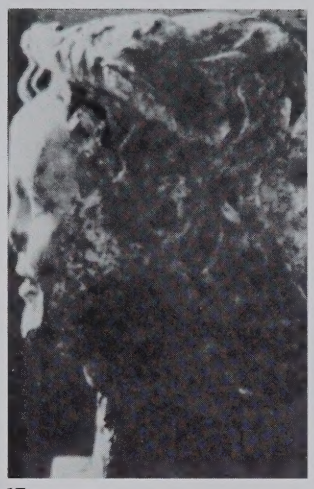
WORKS ON PAPER

15. Attributed to Pietro Testa (Italian, 1611-50). *Saint Jerome Teaching a Putto to Read in a Landscape with Nymphs and Satyrs.* Pen and brown ink on laid paper. 18.9 x 25.5 cm. Inscribed CICERO in l/c. Inscribed in pen and brown ink verso: no. 3/R, and a flower (similar to Lugt 2848). *N90.8. Stolen in transit between New York, NY and Philadelphia, PA on November 30, 1989. (See *IFARreports*, vol. 11, no. 1, January 1990, no. 96.) Recovered in May 2000 after an auction house expert requested a search of the ALR database.

16. Andrew Wyeth (American, b.1917). *The Studio*, 1966. Watercolor. Stolen in 1967 from the Sears Vincent Price Art Gallery in Chicago, IL, this painting was recovered by FBI agents in January 2001 after they were notified that the painting was being auctioned at Christie's in New York.

ANTIQUITIES

17. Roman, *Head of a Janiform Herm* (Roman, 2nd-3rd c. A.D.). *N84.420. Stolen in Ariccia, Italy on November 22, 1983. (See *Stolen Art Alert*, Vol. 5, no. 9, Nov. 1984, no. 1972.) Recovered in November 2001 after ALR staff spotted it in a New York auction sale catalogue.



17.

■ ■ ■

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Copies of the following conference resource materials (approx. 400 pp.), compiled by IFAR, are available as a package:

Suggested Websites for Provenance Research, Art and Cultural Property Law, and Art Theft
Cultural Property Contact List
Sources for World War II Provenance Research at the Frick Art Reference Library
Provisional List of Names Mentioned in Relation to Art Looting During the Holocaust Era (Comm. for Art Recovery)
International Regulations Concerning the Export of Cultural Property: An Update
UNESCO Handbook of National Regulations Concerning the Export of Cultural Property, 1988

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IFAR Evening on Georgia O'Keeffe

with

Barbara Buhler Lynes

Curator, The Georgia O'Keeffe Museum

Author, *Georgia O'Keeffe Catalogue Raisonné*

and

Judith Walsh

Senior Paper Conservator

National Gallery of Art, Washington, DC

April 24, 2002

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76.

101.

Stolen Art

76. Egon Schiele (Austrian, 1890-1918). *Wise, Kirche, and Hauser*, 1912. Oil on panel. 14 1/2" x 11 1/2". Signed and dated u/r. *N01.222. Stolen from a museum in the Czech Republic on September 13, 2001.

92. Henry Moore (English, 1898-1986). *3 Piece Reclining Figure: Maquette No. 4*, c.1975. Bronze. 7 1/8" x 3" x 3". Signed and numbered: Moore 2/9. Edition 2/9. *N01.237. Stolen from a gallery in New York on November 2, 2001.

101. *Pendant* (Panamanian/Columbian, c.500-1,000 A.D.). Gold. Approx. ht.: 3". Stolen from the window display case of a New York auction house between December 6 and December 10, 2001.

102. Dale Chihuly (American, 20th century). *Amparo Blue Macchia w/Regal Red Lip Wrap.* Ht: 20". W: 27". D: 27". *N01.223. Stolen from a gallery in Seattle, WA on September 21, 2001.

92.

102.

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